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HANDBOOK
FOR
RURAL SCHOOL OFFICERS
1910



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HANDBOOK

FOR

RURAL SCHOOL OFFICERS

Comprising the Revised Laws of Minnesota of 1905, and all subsequent Laws and Amendments, together with annotations of decisions of the Supreme Court, and opinions of the Attorney General.

Compiled and Annotated Under the Direction of

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Minnesota Laws, statutes, etc.
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EXPLANATORY PREFACE.

In this compilation will be found all general laws of Minnesota now in force, relating to rural schools and school boards. The Revised Laws of 1905 are taken as the basis, and to them are added all subsequent laws and amendments.

The laws are arranged by subjects, the sections are numbered consecutively, and the index refers to the subjects by sections. At the foot of each section is given the number of the section of the Revised Laws, or the chapter and year of the subsequent session laws from which the section is derived.

Following the sections will be found annotations in small type giving the substance of decisions of the Supreme Court, and opinions of the Attorney General. The references, such as 43 M. 312, are to the volume and page of the Minnesota Supreme Court Reports, regular edition, and the references, such as (Gil. 352) added, are to the Gillfillan edition of the Supreme Court Reports. References such as "Young page 187," or "Simpson January 11, 1910" are to the name of the Attorney General who gave the opinion, and the page of the Attorney General's Report, where the opinion may be found, or the date thereof, as the case may be.

FOREWORD.

Having, as they do, not only the care, control, and management of the school property and schools, but also, to a great extent, of the school discipline and educational training of the children in their district, rural school officials occupy most important and responsible positions. By selecting them in preference to others, the people have shown their confidence in them, and it is not only their duty, but it should be their chief aim and highest ambition, as public servants, to see that the schools under their charge are of the very best.

Upon them depend largely the quality of the education and the kind of moral training received by the school attendants, and these two, education and moral school training, together with home example and influence, form the basis of the future character of the children, that character which is to determine whether those children are to become good and useful men and women and worthy citizens.

School days being the formative period of character, school officers cannot be too careful or painstaking in adopting such reasonable rules and regulations as are necessary for the proper control and government of the schools, in seeing that such rules and regulations are enforced and in supporting the teacher in the enforcement of the same.

School boards and teachers must be in accord if the best results are to be achieved in school work, and the teacher must not only have the necessary knowledge to teach, but must also possess the faculty of being able to impart that knowledge to the children, and at the same time have those essential qualities, patience, kindness, and perseverance which are absolutely necessary in the enforcement of the school rules and regulations and in the proper control and government of children.

For a school to be efficient and progressive, members of the board should study the needs of the school; supply those needs so far as it is in their power to do so, throw aside and disregard all selfish motives, and individual desires and preferences, and act in harmony as a board for the best interests of the school.

Chosen as trustees by the people, the board members should diligently, faithfully, and conscientiously perform the duties of their trust; should be in harmony as a board, among themselves, in feeling and in action, and especially should they be in harmony and act in

concert with the teacher in the education, government and control of the children entrusted to their care and guardianship, for then the school in their mutual charge cannot fail of success.

With the purpose of furnishing rural district officers in a brief and concise form, information as to their duties, and for placing in their hands a ready book of reference for their guidance in the performance of those duties, this hand-book has been prepared, no statutes being referred to except those applicable to rural schools, and special attention is called to "Practical Suggestions to School Boards" and other information made and furnished by Mr. Julius Boraas, County Superintendent of Goodhue County, contained in Chapters XX, XXI, XXII, XXIII, XXIV.

C. G. SCHULZ,

Superintendent of Public Instruction

TABLE OF CONTENTS.

	Sections.
Chapter I.	Common and Independent School Districts... 1- 9
Chapter II.	Powers of Annual Meeting.....10-11A
Chapter III.	School Boards; Voters; Quorum..... 12-18
Chapter IV.	Qualifying for Office..... 19-22
Chapter V.	Duties of Officers..... 23-26
Chapter VI.	Compensation of School Officers..... 27-29
Chapter VII.	Quorum in School Boards..... 30
Chapter VIII.	School Boards, Their Powers and Duties.....31-36B
Chapter IX.	Vacancy 37-38
Chapter X.	Actions 39-41
Chapter XI.	Judgments 42-46
Chapter XII.	Depositories for School District Moneys..... 47-50
Chapter XIII.	Penalties 51-58
Chapter XIV.	Compulsory Education 59-62
Chapter XV.	Bonds 63-66
Chapter XVI.	Taxes 67-69
Chapter XVII.	Teachers 70-74
Chapter XVIII.	School Holidays 75
Chapter XIX.	Tuition 76

PRACTICAL SUGGESTIONS TO SCHOOL BOARDS.

Chapter XX.	Hiring Teachers.
Chapter XXI.	Care of the School Property.
Chapter XXII.	Care and Government of School.
Chapter XXIII.	Care of the Finances.
Chapter XXIV.	Care of the Health.
Chapter XXV.	List of Supplies Furnished Through the Office of the County Superintendent.
Chapter XXVI.	Regulations Relating to the Construction of School Buildings, Issued by the State Board of Health.

CHAPTER I.

COMMON AND INDEPENDENT SCHOOL DISTRICTS.

1. **Formation of districts.**—A majority of the freeholders qualified to vote for school officers residing upon any territory not less than four sections in extent, and in which reside not less than twelve children of school age, whether or not such territory be in whole or in part included in any existing common, independent, or special school district, may petition the county board of the proper county to make such territory a school district, common or independent. (1281)

A petitioner, after signing a remonstrance, cannot be claimed as a petitioner.—Hahn, May 29, 1886.

The statutes provide that a petition for the alteration of a school district, the territory of which lies in two counties, shall be presented to the board of county commissioners of each county, of course, for their concurrent action. It is therefore necessary that the proposed alteration shall be agreed to by each of the boards before it can take effect.—Colville, p. 239.

A married woman is not a freeholder because her husband is such, nor is the husband a freeholder because the wife is such.—Wilson, p. 345.

2. The petition shall contain:

(1) A correct description of the territory to be included in such proposed district.

(2) The number of persons residing therein.

(3) The names and ages of all children of school age residing therein, and the existing district in which each such child lives.

(4) The districts in which such territory lies, and the number of such children in each such district.

(5) The reasons for the formation of the proposed district.

Such petitions shall be acknowledged by the petitioners and submitted to the county superintendent, and if he shall approve of the same he shall endorse such approval in writing upon said petition, stating his reasons therefor; and if he shall disapprove of same he shall indorse thereon in writing his reasons for such disapproval. (1282, as amended by Chap. 110, Laws 1907)

A person signing a petition for the creation of a school district may withdraw his signature therefrom by the signing of a remonstrance or otherwise.—Childs, July 28, 1893.

The board of county commissioners may permit the amendment of a petition for the formation of a school district when such amendment is assented to in writing by all of the persons signing the same.—Childs, Dec. 21, 1894.

3. **Notice of hearing**—Upon the presentation of such petition, the county board shall appoint a time and place for hearing thereon, and shall cause two weeks' published notice thereof to be given in the county, and ten days' posted notice in each district affected. Such notice shall also be served on the clerk of each district, by mail, at least ten days before the time set for hearing, and the auditor's certificate shall be proof of the mailing. (1283)

4. **Proceedings on hearing**—At the hearing the board shall receive any evidence and consider any arguments for and against such proposed organization, and shall make an order either granting or denying the petition; and, if the petition be granted, the order shall particularly describe the district, state its name or number, shall be signed by the chairman, and attested and filed with the auditor, who shall mail to the clerk of each district affected a copy thereof, and shall cause ten days' posted notice to be given of a meeting to organize such district. The board may adjourn the hearing from time to time, and, upon the recommendation or with the written approval of the county superintendent, enlarge or change the boundaries proposed in the petition. (1284)

When a petition signed by a majority of the resident freeholders is presented to the county board, jurisdiction is not lost by reason of the fact that after the petition was signed the number of resident freeholders increased so that at the date of hearing the signers constituted less than a majority.—89 M. 351.

A petition for the formation of a new school district should be presented to the county superintendent, and it is his duty to either approve or disapprove the same in writing, giving his reasons for his action in either event, before the same is presented to the county commissioners. Simpson, Jan. 12, 1910.

5. **Districts in two or more counties**—Whenever the territory affected by any of the foregoing proceedings lies in two or more counties, like proceedings shall be had in each county affected, and no order in such proceedings shall be valid unless concurred in by the county boards of all such counties. (1287)

6. **Appeal from order**—Any person aggrieved may appeal from such order to the district court of the county upon the following grounds:

- (1) That the county board had no jurisdiction to act.
- (2) That it has exceeded its jurisdiction.
- (3) That its action is against the best interests of the territory affected.

Such appeal shall be taken by serving upon the county auditor within thirty days from the making of the order a notice of appeal, specifying the grounds thereof. The appellant shall also execute and deliver to the auditor a bond to the county in the sum of one hundred dollars, to be approved by the county auditor, conditioned for the payment of all costs taxed against the appellant on such appeal. Such further proceedings shall be had upon such appeal as upon other appeals from the county board. (1285)

The County Board, as the representatives of the public, to whom is entrusted the matter of forming school districts, may appeal from an order of the District Court reversing its action.—43 M. 312.

When boards of county commissioners have acted upon a petition to organize a new school district out of parts of other districts lying in different counties, appeal may be taken by any qualified person residing in any part of the proposed new district, to the district court of any county in which is located any part of the new territory; and when an appeal is thus perfected that court acquires jurisdiction of the subject matter, and the county commissioners of the other counties have no interest therein. Bloomquist vs. County of Washington, 101 M. 163.

Although the minutes of the county board did not state the precise question acted upon, it not appearing that the board lost jurisdiction after receiving the petition, by failing to cause the proper notices to be published and posted, it will be presumed that the board retained jurisdiction, considered the petition on its merits, and denied the same on the ground appealed from, viz., that it was not in accord with the best interests of the inhabitants of the proposed new district. Bloomquist vs. County of Washington, 101 M. 163.

Where the county board has granted a petition for dividing a school district, and an appeal has been taken to the district court, the money in the hands of the district treasurer, which has been apportioned by the county commissioners to the new district, the treasurer, for his own protection, should retain and decline to pay over the same until the legality of the proceedings has been determined by the court. Simpson, Sept. 17, 1909.

7. **Change of boundaries**—By like proceedings, and upon petition of the majority of the freeholders of each district affected, qualified to vote at school meetings, the boundaries of any existing district may be changed, or two or more districts consolidated, or one or more districts annexed to an existing district. No change in the boundaries of a district by organization of a new district or otherwise shall be made, so as to leave the old district without at least one school house used for school purposes, nor shall any change of districts in any way affect the liabilities of the territory so changed upon any bond or other obligation; but any such real estate shall be taxed for such outstanding liability and interest, as if no change had been made. In case of the consolidation or annexation of districts, whether under the foregoing or any other provisions of the law, action shall be brought by or against the new or remaining district upon any cause existing in favor of or against any discontinued district, but a judgment in such action against such existing district shall be satisfied only from taxes upon the real property included in the discontinued district, when the liability was incurred.

“Provided, that when any incorporated borough, village or city of not more than two thousand inhabitants is already or partly included within the boundaries of any such school district, or whenever any such school district shall include within or partly within its boundaries any incorporated borough, village or city, of not more than two thousand inhabitants, the boundaries of such school district may be enlarged, so as to include all lands within the corporate limits of said borough, city or village, or so as to include lands within and

outside of such incorporated borough, village or city, but lying contiguous to said district in the following manner, to-wit:

"Whenever a majority of the legal voters residing within such school district shall petition the board of county commissioners of the county wherein such district is situated for an enlargement of such district, and shall file a petition with the auditor of said county, it shall be the duty of the board of county commissioners, at its next regular meeting, or special meeting, to set a time and place for hearing upon such petition, and it shall cause a copy of the notice of such hearing to be posted in some public place in each district to be affected by such proposed change, and a copy thereof to be served upon the clerk of each of said districts, at least ten (10) days before the time appointed for such hearing. The posting of such copy of notice shall be proven by the affidavit of the person posting the same; said affidavit shall state the time and place of posting and serving of the copy of notice as herein specified, and

"Upon filing proof of the posting and service of such notice in the office of the county auditor, the board of county commissioners shall at the time and place fixed, proceed with the consideration of such matter and shall hear all evidence offered by any person interested, tending to show what territory should be included within such district, and having heard the evidence, they shall, if they find it conducive to the good of the inhabitants of the territory affected, proceed to enlarge the said school district as asked for in the petition, and to fix the boundaries thereof and of all the remaining school districts thereby affected, attached to or detaching contiguous territory to or from any of such districts, in such manner as in their judgment the best interests of the persons and districts thereby affected, may require; provided, further, that whenever the territory affected by any of the foregoing proceedings lies in two or more counties, like proceedings shall be had in such county affected, and no order in such proceedings shall be valid unless concurred in by the county boards of all such counties affected.

"At the time of making such division, enlargement or change of boundaries, the county commissioners shall apportion to the district so enlarged that portion of the debts of said other districts as may seem to them right and proper, and said apportionment when so made shall be binding upon all the districts affected, and the county commissioners may also apportion to said districts so enlarged, such portion of the property of such other districts as shall seem to them just and proper." Said last mentioned apportionment shall be subject to review by the district court.

And provided, further, that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, may appeal to the district court from such order, such appeal to be governed by the provisions of section 1285, Revised Laws 1905.

(1286, as amended by c. 188, Laws 1907, as amended by c. 13, Laws 1909.)

If a part of a district is separated from it by annexation to another, or by the erection of a new district, the old district still retains all its property and is responsible for all its debts, unless some other provision is made by the act authorizing the separation.—40 M. 13.

Divisions and awards of moneys, funds, etc., made by the county board, are governed by the rules applicable to other awards. Technical precision is not required, but there must be no uncertainty as to intention.—67 M. 402.

Upon a division of a district, the county board cannot abrogate nor modify contracts of the old district; but should make an order fixing the liability arising out of such contracts. The old district is liable on contracts entered into prior to division, unless the county board provide otherwise.—Young, page 201.

An old district, out of a part of which a new district has been formed, cannot afterwards vote a tax upon the new district to pay bonds issued prior to such division; but in case of failure of the new district to levy its share of the tax, the county auditor, under Sec. 787, R. L., may levy its proportionate share and extend it on the tax lists. Such tax should be levied upon both real and personal property.—Young, page 183.

A tax levied, but not collected, before the division is subject to distribution.—Childs, June 29, 1894.

Upon division of a school district moneys on hand raised for the purpose of building a school house are subject to division.—Childs, Sept. 18, 1893.

8. Division of funds where new school districts are formed—That whenever the boundaries of any school district are changed, or when a school district is formed from territory comprising two or more districts, or when any school district is divided, the county board shall make a division of all moneys, funds and credits belonging to such districts and shall make an award of such moneys, funds and credits to the district or districts affected by such change, and in making such award the commissioners shall take into consideration the indebtedness, if any, of the district so divided, and shall make such division as they deem just and equitable. (Chap. 109, Laws 1907.)

Where a school district has voted upon and carried the proposition to issue bonds, and procures a loan from the state for the purpose of building a school house, and such money has been received from the state, and thereafter the school district is divided, a new district being formed out of part thereof, the money so received and in the treasury of the district at the time of the formation of the new district, should be taken into consideration by the county commissioners, in making the apportionment of funds and credits, as provided by law. Simpson, Jan. 11, 1910.

9. Duties of county auditor—When a school district has been formed from territory comprising two or more districts, or where a school district has been divided and the county board has, by resolution, made a division of the moneys, funds and credits belonging to such districts the auditor of the county shall be required to make a division of all the moneys, funds and credits evidenced by the records in his office pursuant to and as required by said resolution. (Chap. 109, Laws 1907)

CHAPTER II.

POWERS OF ANNUAL MEETING.

10. Powers of annual meeting—The annual meeting shall have power:

1. To appoint a moderator, and a clerk pro tem, if the clerk be absent; but in independent districts the chairman of the board shall preside, instead of a moderator.

2. To adjourn from time to time.

3. To elect by ballot officers of the district.

4. To designate a site for a schoolhouse, and provide for building or otherwise placing a schoolhouse thereon, when proper notice has been given; but a site on which a school house stands or is begun shall not be changed, except by a vote therefor, designating the new site, of a majority of the legal voters of the district who have resided therein not less than six months prior to the vote, and of two-thirds of the voters voting upon the question, except that, in districts having but one schoolhouse, if such schoolhouse be more than one-half mile from the center of the district, such site may be changed to a more central location by a majority vote of those present and voting on the question of change.

5. To repeal and modify their proceedings from time to time, in accordance with the powers herein conferred. (1308)

A school district has authority to employ a part of a dwelling house as a school house.—7 M. 203 (Gil. 145).

A meeting must determine upon the erection of a school house or the selection of a site before a tax can be levied therefor.—10 M. 433 (Gil. 345.)

A district may at a district meeting, make a promise that will take a debt of the district out of the operation of the statute of limitations.—12 M. 17 (Gil. 1).

When a site has been once designated and is situate within one-quarter of a mile from the center of the district, it cannot be changed unless at least a majority of the legal voters in the district who have resided therein for at least six months prior to such vote, and two-thirds of the legal voters present and voting, vote in favor of the change.—61 M. 259.

When a district purchases a site for a school house, erects a school house thereon, and continues to use it, it will be presumed that the site was legally selected by the voters, and that the officers acted within the scope of their authority, when all the records relating to it have been lost.—83 M. 111.

Must Show Authority.—As school districts are mere creatures of law, established for special purposes, and derive all their powers from the acts creating them, it is perfectly just and proper that they should be obliged strictly to show their authority for the business they transact and be confined in their operations to the mode, manner and subject matter prescribed.—School District No. 7, Wright County vs. J. H. Thompson, 5 Minn. p. 221.

The center of the district means the geographical center, and when a district is irregular in form, the center is that point which is nearer more of the territory of the district than any other point. Clapp, Sept. 15, 1889.

"Who are the judges of the special school meeting to receive the vote, and to decide who are voters?" I suppose the same course would have to be pursued as at the annual meeting. The moderator would have to decide all questions, subject to the right of appeal.—Wilson, p. 366.

The directions to contract for the erection or lease of a school house must come from a district meeting, and in the powers conferred upon that meeting there is no limitation as to the amount which shall be expended for the purposes designated, the only limitation being as to the amount of tax which may be levied in any one year, namely, six hundred dollars.—Robbins vs. School District No. 1, Anoka County, 10 Minn., p. 268.

The legal voters at the annual or at a special meeting have no power to select a teacher, or to determine what salary shall be paid. These are questions for the district board, which "gets its authority, not from the voters, but from the law."

District officers must be elected by ballot.—Wilson, p. 352.

Voters may at a lawful meeting rescind vote of former meeting as to selecting site and raising money to build a school house.—Wilson, p. 366.

The proceedings of a school meeting presided over by a moderator not elected in due form are valid if no objection be made at the time.—Hahn, p. 477.

"If funds are not in hand, cannot the electors authorize the board to borrow funds for the purchase of a school house site?" No authority is given to school districts to borrow money save in the manner provided by law.—When, however, the district has incurred an indebtedness for a purpose authorized by law, and the payment of such indebtedness is postponed to a future day, the district, in consideration of the forbearance, may contract to pay interest thereon, and for that purpose may execute and deliver promissory notes.—Wilson, p. 316.

It appears that the trustees built the school house well to the northern boundary of the district, and in so doing ignored the vote of the district in fixing the site. In this they clearly exceeded their authority, and the district would not be bound by their action, and could not be compelled to pay for the house.—Wilson, p. 297.

"In 1882 the district voted to accept two school house sites, and did not build on them, and now have accepted two others. Is it necessary to rescind the acceptance of the first before accepting the latter." Answer: It is not necessary to rescind such action before accepting the latter.—Clapp, April 13, 1888.

The district meeting may ratify a contract by the trustees for more than five months' school, and levy a tax for the payment of teachers so employed.—Cole, p. 102.

A majority of the legal voters at a regularly called meeting may change the school house site to a point at least one-fourth of a mile nearer the center of the district.—Hahn, p. 510.

If a district votes to have school for a longer time than that required by law, it must also vote adequate means to support it. The trustees have no power to levy a tax to meet the increased expense.—Cornell, p. 256.

The annual school district meeting, if held without the statutory notice, cannot vote money for the building or purchasing of a school house, or fix the site thereof, but may transact all other lawful business.—Wilson, p. 324.

Notices are not essential to the legality of an annual school meeting, but when money is to be raised to build or buy a school house or fix the

site thereof, written notices setting forth that such money is proposed to be raised or a site established must be posted as prescribed in the law.—Cole, p. 74.

A person who is a resident of a district and legally qualified to vote at a town meeting or general election, is a legal voter of such district, and hence eligible to hold the office of trustee therein. Under our constitution, a residence for the purpose of voting is not lost by reason of absence while a student in any seminary of learning.—Cornell, p. 257.

The minor children of any parent duly naturalized, and who at the time of such naturalization of the parent, reside within the United States, become citizens and entitled to all the privileges of citizens immediately on their arriving at the age of twenty-one years.—Clapp, April 13, 1887.

"Is it competent for a school meeting to vote a term of school other than the precise term mentioned in the notice?" In my judgment it is competent for a district, at a meeting called upon such notice, to vote any length of term allowed by law. While it is true that the notice is to the effect that a vote will be taken as to whether they will have seven months' school or not, it must be borne in mind that the object of the meeting, as gathered from the notice itself, is to fix the length of the term, and, it coming within the purview of the call, there is no question about the right of the district to take such action. If the notice for the meeting stated the object so precisely that no opportunity of choice and no variation of mode should be left to the meeting, it would give those whose duty it is to call the meeting a check upon the free exercise of the right vested in the residents of the district.—Clapp, Sept. 13, 1887.

After a tax for school district purposes has been extended upon the tax duplicate and partly paid, it is too late to raise the question as to its legality before this office. It must be treated as regular and valid until an adverse judicial determination.—Cole, pp. 260, 291.

The electors of a common school district have no power to raise or appropriate its funds for purpose of private tuition of the district's children in attendance at school of a neighboring district.—Douglas, April 25, 1899.

Change of School Site.—In common school districts the site can be changed from a position in the center of the district to another position in the district, but only by a two-thirds vote of the electors present at a meeting, which vote must constitute at least a majority of all the district electors.—Douglas, March 30, 1900.

The powers of a school district are the same at a special as at an annual meeting.—Sanborn vs. School District No. 10, 12 Minn. 17 (Gil. 1). A school district may, at a district meeting, make a promise that will take a debt out of the operation of the statute of limitations.—Id.

Neither the state superintendent nor the State Board of Health has authority to make recommendations as to school house sites or the removal or change of location of school houses.—Donahower, p. 135.

Under Sec. 3677, Gen. Stat. of 1894, now embodied in Sec. 1308, R. L., a school house site more than half a mile from the center of the district may be changed to a point nearer the center by a majority of the vote cast; but in case the site is within that distance from the center, the proposition to change it must receive a majority of the legal voters in the district, and two-thirds of the votes cast.—Donahower, p. 134.

A person who is a candidate for re-election at a school meeting, may act in an official capacity at such meeting.—Young, p. 204.

When a district at its annual meeting has voted to keep eight months' school and provided the funds, it may afterward at a special meeting legally called under Sec. 1306, R. L., change the length of the school term.—Young, p. 192.

In an independent district the board may be authorized to purchase a site or change it, by a majority vote.—Young, p. 182.

A school site upon which there is no school house completed or begun, may be changed by a majority vote of the legal voters present and voting at a legal meeting; but if a school house stands or is begun to be erected on such site, it requires a majority of the legal voters who have resided in the district at least six months prior to such vote and two-thirds of the voters present and voting to change the site, construing Section 1308, R. L.—Young, April, 1907.

The right of a teacher to vote at the place where she is teaching depends entirely upon whether or not she is a resident of that place; and residence is largely a matter of intention. If she is a resident, that is, intends to make it her permanent home, she is entitled to vote, otherwise not.—Young, May, 1907.

A majority of the legal voters present and voting at a valid meeting, is sufficient to authorize the issue of bonds for the erection of a school building; but if the meeting is called to vote upon the question of a new school house site, there must be a vote of the majority of the legal voters who have resided in the district not less than six months prior to the vote, and of two-thirds of the voters present and voting.—Young, May, 1907.

While the question of a new site and of raising money for a school house may be voted upon in one ballot, it is better practice to vote upon them separately.—Young, May, 1907.

11. Additional powers of meetings in common school districts—

In addition to the foregoing powers, any common school district at its annual meeting, or at a special meeting when proper notice has been given, may vote a sufficient fund for maintenance of its schools and for all other proper purposes, appoint a librarian, and make rules for the use and management of the library, and direct the school board to make designated improvements to school property, and to provide free text-books for the schools. (1309)

Where at a meeting it was voted to have school kept for a specified time, and sufficient funds provided, the trustees are liable to a penalty by neglecting, without excuse, to provide the school for the specified time.—17 M. 227.

A common school district has no authority to loan money raised by taxes for the carrying on of its schools.—Young, p. 191.

11A. Special school meetings—Upon the written request of five freeholders and voters of a district, specifying the business to be acted upon, the clerk shall call a special meeting of such district upon ten days' posted notice and one week's published notice, if there be a newspaper printed in such district, and shall specify in such notice the business named in such request, and the time and place of meeting. If there be no clerk in the district, or if he fails for three days after receiving such request to give notice of such meeting, it may be called by like notice signed by five freeholders and voters of the district. No business except that named in the notice shall be transacted at such meeting. (1306)

The powers of a school district are the same at a special as at an annual meeting.—12 M. 17 (Gil. 1).

When two requests or petitions for meetings to consider different matters, are filed, it is immaterial which meeting is first called; though the natural and orderly course is to call the meetings in the order in which requests were filed.—Young, May, 1907.

When a petition is filed with the clerk for a special meeting, it is his duty to call such meeting by posted and published notices; and if he fail to do so, such meeting may be called by like notices signed by five freeholders of the district. It is neither necessary nor proper that the board act upon such petition or request.—Young, May, 1907.

The statute does not designate who is to preside at a special meeting; hence a moderator selected to preside is the proper person to preside, the same as at an annual meeting; and he is the proper judge of the qualifications of voters and to have charge of the polling of the vote; but it is probable that an appeal from his rulings will lie the same as in the case of similar officers.—Young, May, 1907.

CHAPTER III.

SCHOOL BOARDS; VOTERS; QUORUM.

12. **Board of common district**—The school board of each common school district shall consist of a chairman, a treasurer and a clerk, whose term of office shall be three years each, and until their successors qualify, and one of whom shall be elected annually. At the first meeting of the district the chairman shall be elected to hold until August 1, following the next annual meeting, the treasurer for one year from such date, and the clerk for two years. (1312-1313)

13. **Board of independent district**—The school board of each independent school district shall consist of six directors. At the first meeting of the district, six directors shall be elected, two to hold until August 1 following the next annual meeting, and two to hold until the expiration of one year, and two to hold until the expiration of two years from said August 1; the time which each director shall hold being designated on the ballot.

Within ten days after the election of the first school board and annually thereafter on the first Saturday in August, or as soon thereafter as practicable, the board shall meet and organize by choosing a chairman, clerk and treasurer, who shall hold their offices for one year and until their successors are elected and qualified. They may also elect a superintendent, who shall hold office during the pleasure of the board. He shall be ex-officio a member of the board, but not entitled to vote therein. (1314-1315)

Where, at a meeting of a school board in an independent district, for the purpose of electing a superintendent, the vote results in three votes being cast in favor of a candidate, one vote against him, and two members of the board not voting, the candidate receiving the three votes is elected.—Simpson, March 16, 1909.

It is not the duty of the superintendent of schools, under the law, to take action by swearing out a complaint, against school officers doing acts in violation of the duties of their respective offices, though, as a general proposition, it is incumbent upon all good citizens to bring to attention of the prosecuting officer of their county any known violations of law, and this rule applies, of course, with equal force, to the county superintendent of schools.—Simpson, Feb. 24, 1909.

There being no provision of law requiring that a written ballot shall be taken by a board of education, on the question of electing a superintendent, an "Aye" and "Nay" vote would be sufficient.—Simpson, March 17, 1909.

The proceedings at a meeting of the board of an independent district, at which the superintendent is not present by reason of failure to give him notice, are valid.—Douglas, p. 129.

A person selected to act as chairman or "acting president" of the board of an independent district, in the absence of the president, cannot countersign orders or warrants.—Young, p. 191.

The officers of boards in independent districts must be chosen from the members of the board.

14. **Members of board, when and how elected**—The officers of the board in common districts, and the directors in independent districts must be elected by ballot by the electors of the districts at the annual

school meetings, which meetings shall be held on the third Saturday of July, at 7 o'clock p. m., unless a different hour has been fixed at the preceding annual meeting, upon ten days' posted notice given by the clerk and specifying the matters to come before such meeting. (1305)

The time and place of an annual meeting need not be designated at the last preceding annual meeting. 12 M. 17. (Gil. 1)

The term "posted notice" shall mean the posting at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the district to which the subject-matter of the notice relates, or in which the thing of which notice is given is to occur or be performed. (Sub. 14, Sec. 5514, R. L. 1905.)

The election must be by ballot. "An election, therefore, of school district officers by viva voce vote would be irregular and invalid. A person elected in this way to office would have no title that he could assert against a regular incumbent of the office holding after the expiration of his term. And yet a person elected by a viva voce vote, having qualified and assumed the duties of the office to which he was elected, would be an officer *de facto*, and his acts as to third persons would be valid.—Wilson, p. 352.

A notice of meeting over the signature of five or more freeholders, qualified electors of the district, but which fails to recite on its face that the signers were such freeholders, is not void for want of such recital.—45 M. 88.

15. Voters—To be entitled to vote or hold office in a school district, a person must be a citizen, twenty-one years of age, have resided in the state six months, and in the election district thirty days next preceding the election.

16. Women—Women may vote for school officers and members of library boards, and shall be eligible to hold any office pertaining to the management of schools or libraries. Any woman of the age of twenty-one years and upward and possessing the qualifications requisite to a male voter, may vote at any election held for the purpose of choosing any officers of schools or any members of library boards, or upon any measure relating to schools or libraries, and shall be eligible to hold any office pertaining to the management of schools and libraries. (Art. 7, Sec. 8, State Constitution.)

The office of the county superintendent of schools is an "office pertaining solely to the management of schools," within the meaning of Art. 7, § 8, of the state constitution. Section 8, referred to, takes the matter of allowing women to vote for, or hold school offices, out from under the provisions of the preceding sections of Art. 7, and leaves it entirely within the control of the legislature, subject only to the restrictions contained in § 8 itself. Under this section the legislature has authority to make women eligible to a school office without giving them the right to vote at an election of such officer.—State vs. Gorton, 33 Minn. 345, 23 N. W. Rep. 529. Under this section women are eligible to the office of county superintendent of schools.—Id.

A woman who is entitled to vote, and is a freeholder, can sign petitions and remonstrances respecting the formation and alteration of school districts.—Clapp, Aug. 28, 1888.

A foreign born woman becomes, under the laws of the United States, a citizen when she marries a citizen, and, if married, then when her hus-

band becomes a citizen; and if married to a citizen, she may, if she possesses the other necessary qualifications, vote without taking out any naturalization papers; but to entitle her to the rights of citizenship, her husband, if foreign born, must have taken out his full citizenship papers, that is, his second papers, so called.—Clapp, April 13, 1887.

Women may vote upon the question of fixing the site for a school house.—Childs, Feb. 21, 1895.

Women may vote upon the question of the issuance of bonds for the purpose of erecting school buildings.—Childs, Feb. 21, 1895.

Women twenty-one years of age and otherwise eligible are entitled to vote at school meetings on question of issuance of district bonds.—Douglas, April 4, 1899.

There is no property qualification required to entitle a person otherwise qualified to vote at an annual school meeting upon the question of raising money for improvements in the district. The same general qualifications maintain as for general elections.—Simpson, Aug. 3, 1909.

17. Quorum of electors, and vote necessary to elect—Prior to the adoption of Revised Laws 1905, the legal voters of school districts, not less than five being present, had power, by a majority vote of those present, to elect school officers, but the provisions as to the number of voters required to be present and the number of votes necessary to elect, were eliminated from the statute, and Revised Laws 1905 (1308) provide that:

The annual meeting shall have power * * * 3—To elect by ballot officers of the district.

It would seem, therefore, that in the absence of an express statutory definition, by no longer requiring five, the legislature intended to provide that at least three legal voters of the district present at the annual meeting, should constitute a quorum, and could elect the district officers. And the Attorney General holds that:

In the absence of a statute expressly requiring a majority of votes cast necessary to elect a candidate, the candidate receiving a plurality will be elected.—Young, 127, July 24, 1906.

18. Polls open one hour—The statute provides that at all school meetings the polls shall be held open at least one hour. (1305.)

An election of school officers is not necessarily invalidated on account of the polls being kept open less than the time named in the statute, unless it is made plainly to appear that such numbers of voters were thus deprived of the right to vote as would have changed the result.—Childs, Aug. 13, 1895.

When the polls at a school meeting have been held open for one hour and the ballots counted, they cannot thereafter be opened and another ballot taken, even when there has been no choice.

At the election of school officers, a plurality of votes only is necessary to a choice, and not a majority of all the votes cast under Sec. 1308, R. L.—Young, July, 1906.

A school meeting may be held open until the business is transacted, whether it be for an hour or more, under Sec. 1305.—Young, p. 185.

CHAPTER IV.

QUALIFYING FOR OFFICE.

19. **Notice of election or appointment**—It is the duty of the clerk, within three days after the school meeting, when school officials are elected, or within three days after the appointment of such officials by the school board, to notify them of their election or appointment. (1306.)

20.—**Acceptance of office**—All persons elected or appointed district officers shall, within ten days after notice of such election or appointment, file with the clerk or secretary of the district his acceptance of the office and his official oath, or be deemed to have refused to serve, but such filing may be made at any time before action to fill the vacancy has been taken. (1318.)

A person elected clerk must file his written acceptance within ten days after election and notice thereof; but he need not take and file his oath within such time; it is sufficient if he takes it within a reasonable time when no action has been taken to fill the office.—83 M. 194.

21. **Oaths, where filed**—Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

* * * * *

5. If of a school district officer, with the clerk of the district.

* * * * *

Provided, that if the person taking such oath be also required to give bond, the oath shall be attached to or indorsed upon such bond and filed therewith, in lieu of other filing. (2683.)

22. **Bond of treasurer—Amount—Approval—New bond**—Every school district treasurer shall give bond to the state in a sum equal to twice the amount of money that will probably come into his hands during any one year of his term, to be approved by the board and filed with the clerk, conditioned for the faithful discharge of his official duties. The chairman and clerk may at any time require such treasurer to give a new bond, and, upon his failure to give bond as required by this section, they may declare the office vacant, and appoint a successor; provided, however, that if the said bond so furnished by the treasurer be that of a surety company, authorized to do business in the State of Minnesota, then the amount of such bond shall be equal to the amount of money that will probably come into his hands during any one year of his term. (1328 as amended by Chap. 95, 1907.)

The act of the director and clerk of a district in approving the treasurer's bond is one requiring the exercise of judgment and discretion, and is therefore a judicial act.—72 M. 37.

The statute requiring the treasurer's bond to be in double the amount of money that shall come into his hands, means the aggregate amount that will come into his hands, and not the probable amount that will be in his hands at any one time.—72 M. 37.

A bond purporting to be the obligation of one as principal and others as sureties, but which has been executed only by the sureties, does not, upon its face, show any obligation on the part of the sureties.—School District No. 80 vs. Lapping, 100 M. 139.

CHAPTER V.

DUTIES OF OFFICERS.

23. Duties of clerk—The clerk shall keep in books provided for that purpose a record of all meetings of the district and the board. He shall, within three days after the meeting, notify all persons elected upon any school board or as officers of any district of their election, and, on or before August 10 in each year, make and transmit to the county superintendent a certified report, showing:

1. The condition and value of school property.
2. The receipts and disbursements in detail, and such other financial matters as may be called for by the state superintendent.
3. The annual arrangement of terms of school, and the grading, if any, thereof.
4. The names and postoffice addresses of all trustees and other officers.

5. Such other items of information as may be called for by the state superintendent.

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by the clerk pro tem., and shall keep an itemized account of all the expenses of the district; and in common districts he shall report to the county superintendent the time of commencement of each term at least two weeks in advance. He shall furnish to the county auditor or auditors of the proper county or counties, on or before October 10 of each year, an attested copy of his record, showing the amount of money voted by the district or the board for school purposes; shall draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers or for teachers' wages, to be countersigned by the chairman. Such orders shall state the consideration, payee, and fund, and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages from the current fund shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose. (1326.)

The issuance of an order by the clerk of a district to pay the wages of a teacher known by him not to have been licensed to teach, is an unlawful diversion of the funds of the district, and subjects him to the penalty provided by law.—31 M. 333.

There is no provision of law requiring the giving of a bond by the clerk of a common school district.—Simpson, May 19, 1909.

24. **Duties of treasurer**—The treasurer shall receive and be responsible for all moneys of the district, and shall disburse the same on orders signed by the clerk and countersigned by the chairman, or other vouchers authorized by law. Each order shall state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued. He shall keep an account of each fund, and of all receipts and disbursements, showing the source of such receipts and nature and purpose of such disbursements, and within three days preceding the annual meeting shall file with the clerk a detailed financial statement of the district, showing all receipts and disbursements, and the nature of the same, the moneys on hand and the purposes to which the same are applicable, the credits of the district, and its outstanding liabilities, and the nature thereof. Such report, together with his vouchers, shall be examined by the board, and, if found correct, approved by resolution, entered in the records. If incomplete, or inaccurate, a further or amended report may be required by the board. Such report, when complete, shall be laid before the annual meeting, to be in like manner approved. He shall make such further reports as may from time to time be called for by the board, and shall perform all duties usually incumbent on such officer.

Every order drawn for the payment of teachers' wages, and for any other lawful purpose, after having been presented to the treasurer for payment, and not paid for want of funds, shall be endorsed by the treasurer by putting on the back thereof the words, "Not paid for want of funds," giving the date of indorsement and signed by the treasurer. A record of such presentment, non-payment and indorsement, shall be made by the treasurer. Every such order shall bear interest at the rate of 6 per cent per annum from the date of presentment, until the treasurer serves a written notice upon the payee or his assignee, personally, or by mail, that he is prepared to pay such order; such notice may be directed to the payee or his assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice; no order shall draw any interest if such address is not given when the same is unknown to the treasurer. (1327 as amended by Chap. 445, Sec. 2, 1907.)

When the treasurer has lost district funds by burglary, without his own fault, he and his bondsmen are liable for the loss; and a vote of the district to discharge him from the obligation is of no effect.—44 M. 427.

The treasurer of a district is not required to allow certificates of deposits to remain on deposit in the bank which issued them; but he may convert them into money if he desires.—98 M. 535.

The treasurer who mingles school funds with his own, but who is able and willing at all times to pay all legal orders of the district, and accounts for all money received during his term at the end of his term, is not liable after such accounting and after the end of his term.—98 M. 535.

The practice of county treasurers redeeming district orders out of district funds on hand, instead of paying those funds over to the district treasurer, is reprehensible as liable to abuse, and ought to be discontinued.

"Has the treasurer authority to recognize by payment an order signed by the clerk only?" It will be observed that it is only when attested by

the director that the treasurer is authorized to pay. Paragraph 93 (Sec. 71) provides for the payment of orders signed by the director alone in case of the absence, inability or refusal of the clerk to draw orders.—Hahn, p. 509.

The law implies that the books and moneys shall be turned over to the newly elected treasurer at once, when he shall have qualified, and refusal on the part of the old incumbent to thus comply with the law would subject him to prosecution. It is embezzlement for a school district treasurer to refuse to account to his successor in office and withhold from him the moneys of the district.—Childs, June 7, 1893.

A person who executes any of the functions of a public office without having executed and duly filed the required security is guilty of a misdemeanor, and in addition to the punishment prescribed therefor, he forfeits his right to the office.—Penal Code.

A failure on the part of a treasurer-elect to execute a bond within the required time makes it the duty of the director and clerk to appoint another treasurer.—Childs, July 8, 1892.

There is no provision of law for a deputy district treasurer. Removal of the treasurer from the district creates a vacancy in the office which should be filled by appointment.—Donahower, p. 137.

Under Sec. 1327, R. L., the treasurer of a district is legally and morally responsible for all money of the district in his hands. He should not intermingle such money with his own. If he deposits such money in a bank which pays interest thereon, the interest belongs to the district. He cannot speculate or make profit out of such funds.—Young, p. 386.

Under Sec. 1327, R. L., the treasurer of a district is authorized to pay out money only upon orders signed by the clerk and countersigned by the chairman; and if he wilfully violates this provision, he may be punished under Sec. 4796, R. L., or called to an accounting in a civil action.—Young, p. 203.

Under Sec. 1327, R. L., the treasurer must submit a detailed statement of the finances of the district to the board three days before the annual meeting; and such statement should be examined by the board and, when complete, should be laid before the annual meeting for approval. If the board is not satisfied with such statement, or has reason to believe it is not correct, it may bring suit upon the bond of the treasurer and try the whole matter in court.—Young, p. 387.

The law does not provide that school orders presented to the district treasurer, and indorsed "Not paid for want of funds," shall be paid by the treasurer in the order in which they have been refused, when there are available funds in the treasury for the payment of such orders, but it is suggested that that course of procedure should be followed, and the orders redeemed in the order in which they have been presented and refused, unless there is some good reason for contrary action.—Simpson, May 19, 1909.

25. Duties of chairman—The chairman, when present, shall preside at all meetings of the board and of the district, except when a moderator has been chosen; shall countersign all orders upon the treasurer for claims allowed by the board; shall represent the district in all actions; and shall perform all the duties usually incumbent on such officer.

In case of absence, inability or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chairman, and paid by the treasurer, a statement thereof, with a copy of such orders, being delivered to the clerk by the treasurer, or the office of the clerk may be declared vacant by the chairman and treasurer, and filled by appointment. (1330 as amended by Chap. 445, Sec. 3, 1907.)

26. **Duties of superintendent**—The superintendent in independent or special districts shall visit the schools of the district, and exercise a general supervision over them, and report their condition to the board, with proper recommendations, when he deems it advisable, or when requested by the board. He shall superintend the grading of the schools and examinations for promotion, and shall perform such other duties as the board shall prescribe. He shall make, either directly to the state superintendent, or through the county superintendent, such reports as shall be required. (1331.)

CHAPTER VI.

COMPENSATION OF SCHOOL OFFICERS.

27. **Compensation of clerks of common districts**—The clerk of each common district shall be paid at the rate of two per cent of the cash disbursements for the year, upon making his annual report to the superintendent as required by law accurately and in proper time; but such compensation shall not exceed six dollars in any one year, unless a greater compensation has been voted at a meeting of the district upon a notice stating that action would be had at such meeting respecting such increase of compensation. Such payment shall be made by the treasurer upon a certificate of the superintendent that such clerk is entitled thereto. (1332.)

28. **Compensation of treasurer—common districts**—The treasurer of such district may receive as compensation such an amount as may be determined at the regular school meeting of the district not exceeding 2 per cent of amounts disbursed by him during the year and to be allowed only after his annual report shall have been approved by the board. (1333.)

Under Sec. 1313, R. L., the compensation of the treasurer is limited to the sum voted him by the district, not exceeding two per cent of the amounts disbursed by him during his term of office. He is not entitled to percentage on sums disbursed by his predecessor.—Young, p. 387.

Under Sec. 1332 and 1333, R. L., a clerk of a common district is entitled to no more than \$6 per year compensation, unless more is voted him at a meeting of the district, held upon notice stating that action will be taken at such meeting on such increase of compensation. The treasurer is entitled to two per cent on the amounts disbursed by him, but only after approval of his annual account by the board. A director is not entitled to compensation.—Young, p. 202.

29. **Same—Independent districts—Other pay prohibited**—The clerk, treasurer, and superintendent of independent districts shall receive such compensation as may be fixed by the board. No officer or member of any school board shall receive pay as such, except as provided in this chapter. (1334.)

There is no law authorizing the payment to a director (now chairman) of a school district, of any salary as such, and it is not competent for the electors at the annual meeting, or at any other time, to vote and provide for paying such a salary. The clerk is not warranted in drawing an order for the same, nor is the treasurer justified in paying such an order from the school district funds. Any money so paid to a chairman may be recovered by proper proceedings on behalf of the district.—Simpson, April 13, 1909.

For attending a meeting of school district officers called by the superintendent of schools, a school district officer will not be entitled to compensation to exceed the one day provided for by law, together with his travel allowance of five cents a mile, and cannot collect for the time required in traveling from his home to the place of meeting, and return.—Simpson, May 29, 1909.

CHAPTER VII.

QUORUM IN SCHOOL BOARDS.

30. Quorum—A majority of the school board shall constitute a quorum, but no contract shall be made or authorized except at a meeting of the board of which all members have had legal notice. (1319.)

Contracts, to be binding on the district, must be made or ratified by at least a majority of the board after notice and an opportunity to all the trustees to take part in the matter.—35 M. 163.

To bind the district, a contract for supplies by two trustees must be authorized or ratified at a meeting of the trustees; but if such supplies are received and used by the district for such a length of time as to raise the presumption that it was with the common consent of the district, it will be bound to pay for them.—37 M. 96.

When two of the trustees employ one to perform work for the district, and such action is ratified by the full board, such employe may recover of the district, notwithstanding the work was for a new school house when no site had been lawfully selected by the voters, and the trustees were not authorized to build the school house. This is based upon the law that trustees who act within the scope of their authority, bind the district; and the burden of proving excess of power is upon the district.—93 M. 409.

Director or trustee may not be a party to a contract with the district. *Currie vs. School District*, 35 Minn. 163, 27 N. W. Rep. 922. In order to bind the district, contracts must be made or ratified by at least a majority of the board, after notice and opportunity to all of the trustees to participate in the transaction.—Id.

When one member of board refuses to assent to contract by majority, he may be compelled to by law.—Cornell, p. 260.

There is no authority on the part of the individual members of a board to make a contract for the purchase of books in any other manner than when convened as a board.—Childs, Sept. 1, 1893.

When a part of the members present refuse to vote at all, a vote may be legally decided by a majority of those actually voting, though they do not constitute a majority of the whole number present. This rule rests upon the principle that members present and not voting will be deemed to assent to the action of those who did vote.—Simpson, March 17, 1909.

CHAPTER VIII.

SCHOOL BOARDS—THEIR POWERS AND DUTIES.

31. **Powers and duties of school board**—The school board shall have the general charge of the business of the district, and of the schoolhouses and the interests of the schools thereof, and shall:

1. When authorized by the voters at a regular meeting, or a special meeting called for that purpose, may acquire necessary sites for school houses by lease, purchase or condemnation under the right of eminent domain; erect, lease or purchase necessary schoolhouses or additions thereto; and sell or exchange such schoolhouses or sites, and execute deeds of conveyance thereof. In any city or village such site, when practicable, shall contain at least one block, and, if outside of any city or village, two acres; and, when any schoolhouse site shall contain less than such amount, the board shall, if practicable, acquire other land adjacent to or near such site to make, with such site, such amount.

2. Purchase, sell, and exchange school apparatus, furniture, stoves, and other appendages for schoolhouses.

3. Provide proper outhouses for the schools, plant shade trees and shrubbery, and otherwise improve school sites, procure insurance on school property, and make proper ordinary repairs thereon.

4. When necessary, lease rooms for school purposes.

5. Employ and contract with necessary, qualified teachers, and discharge the same for cause.

6. Provide for the heating and care of schoolhouses and rooms.

7. Provide for the payment of all just claims against the district in cases provided by law.

8. When directed by a vote of the district, or when the board deems it advisable, adopt, contract for, and purchase text-books needful for the schools of the district, and provide for the free use of such books by the pupils of such schools, or their sale to them at cost; but no such adoption or contract shall be for less than three or more than five years, during which time such books adopted shall not be changed.

9. Defray the necessary expenses of the board, including three dollars per day for attending one meeting of the school boards of the county in each year, when called by the county superintendent, and five cents per mile in going to and returning from such meeting, and pay for such record books, stationery, and other incidental matters as may be proper.

10. Superintend and manage the schools of the district, adopt, modify, or repeal rules for their organization, government, and in-

struction, and for the keeping of registers, prescribe text-books and courses of study, and visit each school at least once in three months.

11. In all proper cases, prosecute and defend actions by or against the district. (1320.)

Where a note for a district debt is signed by the trustees without official designation, and the purpose of it is equally known to the payee, the trustees are not personally liable; but if it be doubtful from an inspection of the note itself whether the trustees intended to assume personal liability, the intention may be shown by other evidence.—4 M. 126 (Gil. 83).

A promissory note given by trustees, to be a valid note of the district, must be given for a debt the trustees had authority to contract.—5 M. 280 (Gil. 221).

A promissory note given by trustees must show upon its face that it is the note of the district; otherwise it is the note of the trustees. 6 M. 578 (Gil. 412).

A promissory note, signed individually by the trustees makes the trustees *prima facie* personally liable; and the burden is upon them to show it is a valid note of the district.—13 M. 106 (Gil. 96).

The district, and not the trustees, is liable on a promissory note made by the trustees as such for a debt of the district.—14 M. 214 (Gil. 153).

Where, at a meeting, it is voted to have school kept for a specified time, and sufficient funds are provided, the trustees are liable to a penalty for neglecting, without excuse, to provide the school for such time; and the action to enforce the penalty may be brought by a director or a freeholder in his own name.—31 M. 227.

A trustee cannot enter into a contract with the other trustees for services or supplies to the district for a compensation; and the fairness of such a transaction cannot be considered.—35 M. 163.

The school house of a district is not subject to a mechanic's lien.—39 M. 298.

A school district is not liable for money borrowed by its trustees to complete a school house, without authority, even though it receives the benefit; and no ratification can be inferred from its enjoyment of the improvement for it has had no opportunity to reject.—54 M. 385.

When orders have been legally issued by the trustees, payable generally and not out of a particular fund, the district is liable and must provide funds to pay them.—91 M. 41.

When the trustees act within the apparent scope of their authority the burden of proving an excess of authority is upon the one alleging it.—93 M. 409.

The trustees have power, prior to the annual meeting, to employ a teacher for the ensuing year, and to bind the district for at least five months and for such further time as shall be fixed by the voters at such annual meeting.—93 M. 411.

Where there were sufficient funds on hand therefor, the board of trustees on their own motion caused a well to be dug and a pump placed over it for the use of the school. Held, that the board had no authority to make expenditures of public money for such a purpose until authorized by the voters of the district at a properly called meeting.—Childs, Aug. 24, 1893.

A contract made by the board of trustees with one of their number is void. Where one attempts to act in a fiduciary capacity for another, the law will not allow him while so acting to deal with himself in his individual capacity.—Hahn, p. 486.

The law provides that "the board of trustees shall have the general charge of the interests of the schools." If there are funds on hand not designated by vote of the district to any specific purpose, and not needed to meet matured or maturing claims of teachers, such funds may be used

by trustees to purchase any articles necessary, in their judgment, to the "interests of the school."—Wilson, p. 367.

"When a school district votes to build a school house, designates site and provides funds for the purpose, the trustees of the district are charged with the duty of executing the will of the district in the premises."—Start, p. 425.

If the trustees have contracted for a school for more than five (5) months without special authority from the district, the legal voters at any special or general meeting may ratify such action, and levy a tax for the payment of teachers so employed. If they refuse to do this, the teacher would very likely be without remedy.

Trustees of school districts are public agents, and when they in good faith contract with parties having full knowledge of the extent of their authority, or who have an equal means of knowledge with themselves, they do not become individually liable unless the intent to incur a personal liability is clearly expressed, although it should be found that through ignorance of the law they may have exceeded their authority. Any knowledge of a defect in their authority, accessible to them but not to the teacher, would probably fix a liability on them.—Cole, p. 102.

"Have school district trustees power to hire money to build a school house?" I think not. Corporations, and especially quasi corporations, have only those powers specifically granted to them by statute, and such others as are necessary for carrying into execution those specifically conferred. By Sec. 52, School Laws, the trustees are authorized "to build, hire or purchase a school house, out of funds provided for that purpose."

The law requires school to be taught in the district at least five months, and the trustees cannot safely ignore that provision, notwithstanding the action of the district. The district having neglected to vote the requisite tax, it is the imperative duty of the trustees to levy the same.—Clapp, Sept. 24, 1888.

Trustees may employ more than one teacher if district has funds, notwithstanding an adverse resolution voted by the district.—Wilson, p. 354.

It is the special business of the trustees to employ teachers. The voters of the district may, in their individual or collective capacity, advise the trustees as to their wishes, but cannot control their action.—Wilson, p. 354.

"Is the employment of a teacher by the treasurer and clerk of a school district, without any notice to the director, and without any meeting being held, legal?" I answer that it is not.—Hahn, p. 536.

A contract made with a teacher who does not hold a certificate which is valid in the district where he is to be employed, is void, and a certificate cannot be dated back to cover services rendered before it was granted.—Jenness vs. School District 31, Washington County, 12 Minn. 448.

When a teacher is employed to teach for a specified time and the school is interrupted necessarily, but by no fault of the teacher, who is always ready to fulfill the contract, the teacher, after the expiration of the time, may maintain an action against the district for the entire amount of wages. If, however, the district can show that during the whole or a portion of the time the teacher was engaged in similar employment, or was offered such employment and refused it, the damage may be reduced.—Cole, p. 87.

If in the opinion of the trustees the services of more than one teacher are demanded by reason of the numbers in attendance at a district school, an additional teacher may be employed, the board keeping within the means provided by the district.—Wilson, p. 354.

A contract made with a teacher before he has secured a certificate is void, and a subsequent issuance of a certificate will not make the same valid. This applies alike in common, independent and special districts.

"Have school boards authority to engage teachers for the following year before the annual meeting?" It matters not whether it is before the annual meeting and the election of the new member or not. The trustees may,

either before or after the annual meeting and without express authority from the district, contract for the term required by law, and no more.—Hahn, p. 538; Start, p. 436; Cornell, p. 159.

If a teacher holds a valid certificate at the time of making a contract which extends beyond the life of the certificate, such contract is good, and will remain so as long as the teacher is in possession of a valid certificate and until the contract expires by its own terms.—Clapp, Oct. 12, 1891.

Teachers cannot enforce verbal contracts which the law requires to be in writing.—Douglas, Jan. 4, 1901.

The law establishes the school age between five and twenty-one years, subject to the authority granted the board of trustees to fix the minimum age at six years.—Douglas, Aug. 17, 1900.

A school board has power to rent rooms for a school if the school building is inadequate; it also has power to repair the school house, but has no right to so enlarge and repair it as to constitute a re-building or to make a new and larger one out of it. The building of a new school house must be voted on at a school meeting.—Donahower, p. 129.

The general control of schools is in the board; and if the superintendent and teachers establish rules of discipline and school work to the disadvantage of the welfare of the school, the board has power to change them.—Douglas, p. 129.

Members of the board and teachers cannot, directly or indirectly, be financially interested in sales, leases or contracts relating to district property; and if they do become so interested, they are guilty of misdemeanor and may be prosecuted or restrained.—Donahower, p. 133.

Members of a school board cannot legally do work of repairs on a school house and draw pay therefor.—Young, June, 1907.

A school board has no authority to sell a school building unless authorized by the voters at a regular or special meeting called for the purpose; construing section 1320, R. L.—Young, Dec., 1906.

School boards are not corporate bodies, but rather resemble directors of a corporation. The school district is the corporation. Contracts of insurance of school property should run to the district. A member of the board cannot be interested individually, as agent or otherwise, in a contract of insurance on school property.—Young, p. 182.

The school board of a common district in making contracts with teachers, can bind the district for only five months; and in case contracts are made for a longer period, they will be valid for five months and for such longer time as shall be ratified at a meeting of the district.—Young, p. 179.

School boards have no authority to employ teachers who do not hold certificates, and the district continue to draw state apportionment money.—Young, June, 1907.

Money received from the state apportionment of funds, cannot be used by a district to build a school house; but money received from the one mill tax and any balance of money raised for a specific purpose, after such purpose has been accomplished, may be used for building a school house after the voters have so decided at an annual or special meeting.—Young, June, 1907.

A member of a school board who renders services and expends his own money in good faith in looking after the building of a school house, has a valid claim for such services and advancement, provided the voters at the annual meeting voted to pay him; but probably he is not entitled to 2 per cent of the cost of the building.—Young, Oct., 1906.

Under Sec. 1320, Sub'n 11, R. L., the board may prosecute an action against the treasurer when he refuses or fails to turn over to his successor in office any portion of the district funds in his hands.—Young, p. 385.

A school board has no authority to pay a director for services; and if it has paid for such services, any taxpayer may maintain an action for its recovery for the benefit of the district; if the money has not been paid, he

may maintain an action to restrain such payment; citing 77 M. 526; 88 M. 127.—Young, July, 1906.

School boards are neither authorized nor justified in expending money for the services of an expert accountant to examine the books of the district.—Young, May, 1906.

The school board, after the district has voted an eight months' school, may contract with a teacher for eight months at any time prior to a change in the length of the term by a vote of the district.—Young, p. 193.

There is no provision of law relating to roads to school sites or buildings. Such roads must be laid out as other roads under Sec. 1171 and 1181, R. L.—Young, July, 1906.

Though on account of the low assessed valuation of the property in the township, there is not sufficient money to keep the schools in session for the length of time voted at the annual meeting, and though one school is greatly overcrowded, the school board cannot rent another room and hire another teacher, incur the necessary expenses, and issue orders in payment of same, when such orders cannot be paid during the current school year, without a vote of the people.—Young, Oct. 27, 1908.

A school board has power to adopt such reasonable rules and regulations as contribute to the moral, physical and intellectual welfare of the pupils attending school, and a rule to the effect that a pupil convicted of smoking on the streets or in public places might be expelled, by the board, from school, would be a reasonable rule and one which could be enforced by the board.—Simpson, Dec. 8, 1909.

Rules and regulations, whether made by the board, or made by the teacher and afterward ratified by the board, must be reasonable, and the courts have held that a rule is reasonable under which a pupil may be suspended or expelled if he wilfully injures or destroys school property, for this would be a punishment for breach of discipline. But it is also held that a rule which causes a pupil to stand suspended or expelled until he pays for the injury caused by him to school property, or until he pays a fine which may be assessed against him for such injury, is unreasonable and void, because in such a case he would be suspended or expelled, not because of the injury caused by him, but because he did not pay the damages or the fine.—Young, May 27, 1908.

If, in the opinion, and according to the best judgment of the board, especially when such opinion and judgment are based upon experience and actual results, the board determines that the attendance by the pupils of the school at public dances interferes with the regular school work of those participating in the same, and is injurious to the best interests of the school in general, the board can, by adopting a rule, prohibit such attendance. But the rule adopted must be a reasonable one under all the circumstances, and if suspended for violating such a rule, a pupil can have the court determine whether the rule is a reasonable one and such as can be enforced, or is arbitrary, and therefore null and void.—Simpson, April 21, 1909.

It is not the duty of a school board to build a barn upon or near the school premises, for the accommodation of the horses of the children living at a distance from the school, nor can the board be compelled to build such a structure.—Simpson, Oct. 6, 1909.

Although the law does not expressly provide for the advertising for bids prior to letting a contract by the board for building a school house, such course is by all means advisable, and a two weeks' publication in an available newspaper is suggested, to the end that due publicity may be given of the fact that the district is desirous of receiving bids for building a school house, and that by such action as favorable a price as possible may be secured.—Simpson, July 22, 1909.

32. Additional powers of board—The school board may also:

(1) Provide for the admission to the schools of the district, of non-resident pupils, and those above school age, and fix the rates of tuition for such pupils.

Provided, in case a person has real property in, and pays taxes thereon, in a common or an independent school district other than the one in which he resides, then such person shall be admitted to all the benefits of such other school, the same as the residents thereon, and if the owner of less than 80 acres therein, he shall be admitted to all the benefits of said school the same as residents therein, upon conforming to such reasonable terms for tuition as the board of education of such school district may have established for non-residents, except that he shall be entitled to have the amount of school taxes which he pays to the support of said district applied in payment or said tuition fees.

Provided, further, that nothing in this act shall be so construed as to authorize any person who may receive any of the benefits or privileges of this act, to vote at any school district meeting of the school district within which he may receive such benefits or privileges, but of which he is not a member.

(2) Establish and organize, alter and discontinue, such grades of schools as they may deem expedient.

(3) Upon a petition of a majority of legal voters, authorize the use of any schoolhouse in the district for divine worship, Sunday schools, public meetings, elections and such other similar purposes as, in their judgment will not interfere with its use for school purposes; but before permitting such use, the board may require the bond of some responsible party, in the penal sum of one hundred dollars, conditioned for the proper use of such school house, the payment of all rent, and the repair of all damage occasioned by such use, and they shall charge and collect for the use of the district from the persons using such school house, such reasonable compensation as they may fix. (1321 as amended by Chap. 445, Sec. 1, 1907.)

Divine Worship, Etc.—This statute was evidently intended to cover cases where the school house was actually rented to some person or society which had no connection with the school or its management. It was never intended to be used as a cloak or subterfuge to enable the school trustees to use the school house and the teacher employed therein with public school moneys to conduct religious worship in connection with such school.

(4) Subject to such rules and regulations as they shall adopt; provide for the free transportation to and from school, at the expense of the districts, of all pupils residing more than one-half mile from the school house, for the whole or such part of the school year as they may deem expedient; and in school districts situated in more than one county shall provide such transportation during the months of October, November, December, January, February, March and April, for all pupils residing two miles or more from the school house, and who are not less than six years of age nor more than sixteen years of age; and shall require from every person employed for that pur-

pose a reasonable bond for the faithful discharge of his duties, as prescribed by the board." (Sec. 4, Chap. 445, 1907, as amended by Chap. 472, 1909.)

(5) Make rules and regulations respecting the protection of the property of the district, and prescribe penalties for a breach thereof, to be recovered for the use of the district as penalties in other cases, before a justice of the peace, and change or repeal such rules. (1321, as amended by Chap. 445, Sec. 1, 1907.)

The question of whether a person is an actual resident of a school district is one which depends upon the facts in the case.—91 M. 263.

The board has sole power to admit non-resident pupils to the school. Non-residents cannot attend without its permission, and it may withdraw such permission at any time.—Young, p. 196.

Under Sec. 1321, R. L., the board has the sole power to fix the rate of tuition for non-resident pupils. It may take into consideration the relations of such non-residents to the district; and if such non-residents pay taxes in the district, it may fix a lower or nominal rate of tuition in their cases.—Young, p. 200.

The right of a child to free tuition depends upon the residence of such child without regard to the residence of its parents. If such child comes into the district for the mere purpose of attending school, the board may, in its discretion, charge tuition, or exclude him altogether. On the other hand, a child who actually resides in the district is entitled to school privileges without charge. The question of actual residence is one to be determined from all the facts in each case.—Young, p. 177.

Under Sec. 1321, R. L., a parent or guardian may send his children to any school he pleases, either in the district of his residence, or in another, by complying with the regulations of the board of such other districts as to tuition, etc.—Young, p. 201.

The school board may charge non-resident pupils the cost price of books and supplies used by them.—Young, p. 196.

The privilege, extended to the owner of land in a school district in which he does not reside, of having the amount of tax paid by him on his land applied on the tuition of his children in case he wishes to send them to the school of such district, does not extend to the tenant or renter on such land.—Young, p. 207.

Pupils attending school in a district of which they are not residents, registered as paying book-rent, shall not be counted for drawing apportionment, under Sec. 1321 and 1346, R. L.—Young, p. 185.

The matter of attendance of non-resident pupils, is to be governed by the school board of the district where such pupils wish to attend, under Sec. 1321, R. L.—Young, p. 178.

One owning more than eighty acres of land in a district of which he is not a resident, is entitled to send his children to school in such district without paying tuition; but if he owns less than eighty acres, he should be admitted to all benefits of such district upon conforming to such reasonable tuition charges as the board has established for non-residents, and is entitled to have the school taxes he pays to support such district applied upon tuition. In either case he is not entitled to vote at the meetings of the district; construing chapter 445, Laws 1907.—Young, May, 1907.

33. **Instruction of pupils in adjoining district**—The school board of any district, if it deem it advisable, may provide for the instruction of pupils in an adjoining district or districts, and in such case shall discontinue the schools of the district and provide for free transportation of the pupils of its district, shall furnish the teachers of the ad-

joining districts registers, and such teachers shall keep such registers separately for the pupils from such district discontinuing its schools, and shall return such registers and make reports to the clerk of such district and to the superintendent as if employed as teachers therein, and such district shall retain its organization and be entitled to public money as if school were continued therein. (1322.)

34. Additional powers of boards in independent districts—The school board of any independent district may also:

1. Establish and maintain public evening schools as a branch of the public schools, and such evening schools, when so maintained, shall afford a continuous session of not less than two hours on each school day, shall be available to all persons over ten years of age who from any cause are unable to attend the public day schools, and attendance at such evening schools shall entitle such district maintaining the same to its pro rata apportionment of state school funds for all pupils not over twenty-one years of age, the same as if such pupils attended the day schools of such district. Except as herein provided, such evening schools shall be under the same regulations as day schools of like grade.

2. Establish and maintain one or more kindergartens for the instruction of children above four and under six years of age.

3. Receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose, and apply the same to the purpose designated.

4. Remove for proper cause any member or officer of the board and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place and object he has been duly notified, with the reasons of such proposed removal, and after an opportunity to be heard in his own defence. (1323)

35. Special duties of boards in common school districts—The school board of every common school district shall submit to the annual school meeting an estimate of the expenses of the district for the coming year for a five-months school, and for such further time as it may be decided by the meeting to hold school, and for such other specified purposes as the board may deem proper, and, if such meeting shall fail to vote a sufficient tax to maintain a school for such time, the board shall levy such tax; but no such school board shall expend any money or incur any liability for any purpose beyond the sum appropriated by vote of the district for such purpose, or levied by the board pursuant to this section, or on hand and applicable thereto. When the district has decided by vote at any legal meeting to open more than one school, the board shall provide for opening such school or schools, and assign to each a proper number of pupils. (1324)

36. Special duties of boards in independent districts—In addition to the duties hereinbefore imposed, the school board of each independent school district shall:

1. Make, and, when deemed advisable, change or repeal, rules relating to the organization and management of such board and the duties of its officers.

2. Provide by levy of tax necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the district. (1325)

In an independent district, the board, and not the electors, should determine the length of school to be held; under Sec. 1325.—Young, p. 181.

36A Text-books—Lists and samples—Before any person shall enter into a contract with any school board to furnish text-books, he shall file with the state superintendent a list of his books, with their lowest net price, and deposit with him a copy of each such book, in binding, paper, print, and matter such as he proposes to furnish at such prices. The state superintendent shall furnish a copy of all such lists and prices to the clerk of each district. (1427)

36B. Free text-books—Meeting—Notice—Whenever five or more legal voters of any school district shall petition the school board to submit to such district the question of providing free text-books to pupils attending its schools, it shall be the duty of such board to submit the same to the legal voters of such district. Such question may be submitted at a special meeting by giving 'ten days' notice thereof, or at any annual meeting. But in any case the notice of such meeting shall call attention to the fact that such question will be submitted, and in case a majority at such meeting shall vote in favor of such free text-books, it shall be the duty of the board to provide the same. (1428)

Proposition to issue free text-books must be stated in notice calling annual or special school district meeting.—Douglas, Sept. 9, 1899.

Boards of trustees may levy a tax to pay for free text-books if it is not voted by the people.—Childs, June 27, 1893.

The board of an independent district has power to establish a system of free text-books without a vote of the district; but it may submit the question to a vote.—Douglas, p. 129.

When the board has selected, adopted and contracted for books which cover a certain subject, such books must be used to the exclusion of others during the time for which they are adopted, but if other books on the same subject are required, they may be contracted for, provided it is in accord with the prior action in force. The board has power to contract for books only with publishers who have complied with the law by filing schedules of lists and prices.—Douglas, p. 131.

CHAPTER IX.

VACANCY.

37. Vacancies in School Boards—How Filled—A vacancy in any school board or board of education elected by the people shall be filled by the board at any legal meeting thereof until such vacancy can be filled by election at the next annual meeting. Such appointment shall be evidenced by a resolution entered in the minutes. All elections to fill vacancies shall be for the unexpired term. (1316)

When a member of the board has removed from the district, his office is vacant; and the vacancy thus occasioned may be filled by the remaining members of the board, and the person appointed will hold office until the next annual meeting, construing section 1316, R. L.—Young, Dec., 1906.

In case of a tie vote at an annual school election for officers, a second ballot cannot be taken, but a vacancy exists in the office, which vacancy can be filled by appointment by the school board; but if the board shall fail for ten days to fill such vacancy, a special meeting will be called for that purpose, by ten days' posted notice, signed by three qualified voters, or freeholders of the district, and setting forth the object of the meeting.—Young, 59.

38. Special election to fill vacancy—It the board shall fail for ten days to fill any vacancy, a special meeting may be called for that purpose by ten days' posted notice, signed by three qualified voters, freeholders or householders of the district, and setting forth the object of the meeting. Officers elected at such meeting shall hold for the unexpired term, but no such meeting shall be held within thirty days before the annual election. (1317)

It is not mandatory that the board fill a vacancy within ten days; and they may fill it at a later time, but should not do so after ten days and after a meeting for the purpose of filling such vacancy has been called by three qualified voters. The vacancy should be filled as provided in section 1316, R. L.—Young, May, 1907.

Where, at an annual school meeting, there were two candidates for district clerk, and each received twenty-two votes, the ballot resulted in no election, thus causing a vacancy in the office of clerk, which could be filled by the board within ten days, and if not so filled, a special meeting could be called for that purpose, by ten days' posted notice, signed by three qualified voters, freeholders or householders of the districts, and setting forth the object of the meeting. Sec. 1317, R. L., 1905.—Simpson, July 21, 1909.

CHAPTER X.

ACTIONS.

39. **Actions by districts**—Any school board may prosecute actions in the name of the district in the following cases:

1. On a contract made with the district, or with the board in its official capacity;

2. To enforce a liability, or a duty enjoined by law, in its favor or in favor of the district;

3. To recover a penalty or forfeiture given by law to it or to the district; or

4. To recover damages for an injury to the rights or property of the district. (1457)

When a trustee renders himself liable to a penalty, though the cause of action for the penalty is in the district, the action may be brought by a director or a freeholder in his own name.—31 M. 227.

40. **Actions against districts**—An action may be brought against any school district, either upon a contract made with the district or its board, in its official capacity, and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such board, whether the members of the board making the contract, or guilty of the act or omission complained of, be still in office or not. (1458)

Where a district has changed its name, an action against it should be brought by its new name.—7 M. 203 (Gil. 145).

A judgment entered against a school district by collusion between the plaintiff and one of the trustees, may be set aside, on a proper application, and a defense on the merits interposed.—45 M. 88.

Where the trustees knowingly neglected to defend in an action against the district, allowing judgment to go by default, the court may, in its discretion, open such judgment, upon application made immediately after change of trustees.—89 M. 477.

A complaint on an order of a district which failed to allege the consideration for the order, or that there were funds applicable to its payment, held good as against objections raised for the first time at the trial.—91 M. 41.

41. **Action when trustees resign, etc.**—In case the trustees of any school district which has contracted an indebtedness shall remove or resign, and none are elected or appointed in their stead, an action to recover such indebtedness may be begun by service of the summons upon the county auditor, and any taxpayer of the district may defend such action in its behalf, or the auditor may be required by the voters of the district to defend the same upon being indemnified against the costs and expenses of such defence. (1462)

CHAPTER XI.

JUDGMENTS.

42. Judgment paid by treasurer—Except as hereinafter provided, no execution shall issue upon any judgment against a school district for the recovery of money. Unless the same be stayed by appeal, the treasurer shall pay such judgment upon presentation of a certified copy thereof, if he has sufficient money of the district not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection be afterward stayed. (1459)

A judgment against a district can be paid only out of money not otherwise appropriated.—43 M. 495.

The treasurer of the district can pay a judgment against the trustees only out of money not otherwise appropriated. He has no authority to pay it out of moneys applicable only to other specific purposes.—43 M. 495.

43. Failure to pay—Tax levy—If such judgment is not satisfied, or stayed by appeal or otherwise, before the next annual meeting of the district, a certified copy thereof may be presented at its annual meeting, whereupon the district shall cause the amount of the judgment, with interest, to be added to the tax of said district. If such tax is not levied and certified to the county auditor on or before October 1 next after presentation as aforesaid, a certified copy thereof may be filed with such auditor at any time before he has extended the tax of such district, with an affidavit showing the amount remaining unpaid thereon, and the fact of such presentation to the district. Thereupon the auditor shall at once levy and extend such amount as a tax upon the property taxable within the district. (1460)

44. When Execution may issue—If the judgment is not paid within thirty days after the time when the proceeds of such levy become payable by the county treasurer of the district, execution may be issued thereon, to which any property belonging to the district shall be liable. (1461)

45.—Action when trustees resign, etc.—In case the trustees of any school district which has contracted an indebtedness shall remove or resign, and none are elected or appointed in their stead, an action to recover such indebtedness may be begun by service of the summons upon the county auditor, and any taxpayer of the district may defend such action in its behalf, or the auditor may be required by the voters of the district to defend the same upon being indemnified against the costs and expenses of such defence. (1462)

46. Judgment, how satisfied—If judgment is recovered in any such action, the auditor, upon a certified copy thereof being filed with

him, shall levy and extend upon and against the property taxable within the district an amount sufficient to pay the same, with interest. When such tax, or any part thereof, is collected, the county treasurer shall pay the same to the holder of the judgment until it is satisfied in full. And for this purpose the treasurer may use any money coming into his hands from taxes levied prior to the judgment for the payment of the same indebtedness. (1463)

CHAPTER XII.

DEPOSITORIES FOR SCHOOL DISTRICT MONEYS.

47. **School officers may select depositories**—The officers of the several common and independent school districts in this state may in their discretion, select and designate as a depository or depositories for school district moneys, any national or state bank, or banks, for a period not exceeding three years on the execution of such bank or banks of a sufficient bond to the school district in double the sum deposited, except in cases where the bond furnished is that of a surety company authorized to do business in the state of Minnesota, and in such cases the amount of bond shall be equal to the estimated sum to be deposited, to be approved by the board and filed in the office of the county auditor of the county wherein said school district may be situated, and thereupon may require the treasurer to deposit all or any part of the school district's money in such bank or banks. Such designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made, be signed by the chairman and clerk or president and clerk as the case may be, and filed with the clerk. That thereupon such bank or banks shall become a legal depository or depositories for school district moneys and thereafter the school district treasurer shall deposit such school district moneys therein as he shall be required from time to time to deposit by such school district officers. (Sec. 133, 1907, as amended by c. 332, 1909)

48. **Treasurer to be exempt from liability**—The school district treasurer and the sureties on his bond shall be exempt from liability to the school district by reason of the loss of any funds of such school district deposited in any such bank or banks from the failure, bankruptcy or other acts of such bank or banks to the extent and amount of such funds in such bank or banks at the time of such failure or bankruptcy. (c. 133, 1907, as amended by c. 332, 1909.)

If a school board has properly designated a bank as a depository, a proper bond having been furnished and accepted, it becomes the duty of the treasurer to deposit the funds of the district in such bank, and, failing to do so, he is personally responsible for such funds, and if they are lost he and his bondsmen can be held therefor. Action in mandamus will lie to compel him to deposit the funds in the designated depository.—Simpson, Aug. 19, 1909.

49. **Interest computed monthly**—All interest on moneys deposited, as hereinbefore provided, shall be computed on monthly balances, and become the property of said school district. (c. 133, 1907, as amended by c. 332, 1909.)

50. **Officers not allowed additional compensation**—No additional compensation or fees shall be paid any of the school district officers by reason of any of the provisions of this act. (c. 133, 1907, as amended by c. 332, 1909.)

CHAPTER XIII.

PENALTIES.

51. **Excluding or expelling pupils**—Any member of any public school board or board of education of any district, who without sufficient cause, or on account of race, color, nationality, or social position, shall vote for, or, being present, shall fail to vote against, the exclusion, expulsion, or suspension from school privileges of any person entitled to admission to the schools of such district, shall forfeit to the party aggrieved fifty dollars for each offense, to be recovered in a civil action. (1402)

A school board has no authority to exclude a child of school age from school during any portion of the school year, and such child is entitled to admission whenever the minimum age is reached, whether the same be at the beginning or during any part of the ensuing term or year.—Simpson, March 4, 1909.

The fact that parents pay no taxes in no way affects the right of their children to attend school, nor is such right affected by the manner of living of such parents, and while it is not incumbent upon local school districts to educate children of Indian parents who are wards of the government, and have not severed their tribal relations, yet an Indian who has become a citizen of the state, and is a voter, occupies a different position, and the children of such person would be entitled to attend school.—Simpson, Sept. 8, 1909.

51A. **Penalty for failure to pay teachers' wages**—Any treasurer who uses money applicable for teachers' wages for any other purpose shall be personally liable to any teacher who becomes entitled to any part of such funds for such amount to be recovered in a civil action against such treasurer and the sureties on his official bond. (1329)

52. **Improper classification**—No district shall classify its pupils with reference to race, color, social position, or nationality, nor separate its pupils into different school or departments upon any of such grounds. Any district so classifying or separating any of its pupils, or denying school privileges to any of its pupils upon any such ground, shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation, or exclusion shall occur or continue. The state superintendent, upon notice to the offending district, and upon proof of the violation of the provisions of this section, shall withhold in the semi-annual apportionment the share of such district, and the county auditor shall thereupon exclude such district from his apportionment for such period. (1403)

53. **Refusing to serve on school board**—Any person accepting an election or appointment upon any school board, and refusing or neg-

lecting to qualify or to serve, or to perform any of the duties of such office, shall forfeit for each offense the sum of ten dollars, to be collected in an action before a justice of the peace, to be prosecuted in the name of the district by its director or other proper officer, or by any freeholder thereof. (1404)

Where, at a regular school district meeting, it is voted to have a school kept for a specified time and sufficient funds are provided, the trustees render themselves liable to the penalty imposed by this section, as amended by Laws 1879, c. 41, by neglecting, without excuse, to provide the school the specified time.—*Soule vs. Thelander*, 31 Minn. 227, 17 N. W. Rep. 373.

54. Failure of clerk to report—Any clerk of a school district who fails to make any report required of him by law shall forfeit not less than five dollars nor more than fifty dollars for the use of the district. (1405)

55. Drawing illegal order—Any school district clerk who shall illegally draw an order upon the treasurer, any chairman or other officer who shall attest such order, and any school district treasurer who shall knowingly pay the same, shall each forfeit to the district twice the amount of such order to be collected in an action brought in the name of the district by any freeholder thereof. (1406)

The issuance of an order by a school clerk for the payment of the wages of a teacher known to him not to have been licensed to teach, subjects him to a penalty.—31 M. 333.

Under this section the issuance of an order by a school district clerk, drawn by him upon the treasurer for the payment of the wages of a teacher known to him not to have been licensed to teach, and paid out of the funds appropriated for teachers' wages, is an unlawful diversion of public school funds from their legitimate channel, and subjects him to the penalty prescribed.—*School District No. 10 vs. Thelander*, 31 Minn. 333, 17 N. W. Rep. 866.

56. Neglecting to keep or deliver records—Any school district clerk who shall neglect to keep the books and records of his office in the manner prescribed by law, or shall wilfully refuse to deliver such books and records to his successor in office, shall forfeit to the use of the district the sum of ten dollars for each offense. (1407)

57. Dealing in school supplies—No teacher, nor any state, county, town, city, or district school officer, shall be interested directly or indirectly in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which he is connected. Any person violating any of the provisions of this section shall forfeit not less than fifty dollars nor more than two hundred dollars for each such offence. But this section shall not apply to a teacher who may have an interest in the sale of any book of which he himself is the author. (1410)

It is not within the reason of the statute to prohibit a person who chances to be an officer or teacher in a given county or school district from engaging in the sale of such books or apparatus elsewhere than in his county or district. Indeed, it is obvious that the prohibition in terms does not reach sales made elsewhere.—*Childs*, April 27, 1896.

58. Duty of officers to report violations of law—Every officer to whom reports are required by this chapter to be made, and for the failure to make which a penalty or fine or forfeiture is provided, shall give immediate written notice of such failure to the delinquent and to the proper county attorney. Such county attorney shall thereupon institute proper proceedings to collect such penalty, fine, or forfeiture. Upon complaint of the county superintendent, or whenever it comes to his knowledge that any school officer has violated any provision of this chapter, for which violation a penalty, fine, or forfeiture is provided, such attorney shall institute like proceedings. (1411)

School officers against whom charges have been made of illegal acts, can hold respective offices until removed by competent authority.—Simpson, March 18, 1909.

Where, at the annual school meeting, it was determined that there should be six months' school, a three months' term beginning the first Monday in October, and another three months' term beginning the first Monday in February, but a majority of the school board, disregarding the action of the annual meeting, decided to commence the second term on the second Monday in January, instead of February, the two members of the board voting for and causing such change would not be subject to a fine covering the extra cost, if any, of the January school expenses.—Simpson, March 19, 1909.

CHAPTER XIV.

COMPULSORY EDUCATION.

59. Children between 8 and 16 years to be sent to school unless certain excuses are found valid—Every parent, guardian or other person who resides in any school district and who has control of any child or children of or between the ages of eight and sixteen years, and in school districts contained in cities of the first class between the ages of eight and eighteen, shall send such child or children to a public or private school in each year during the entire time the public schools of such district are in session.

Provided, however, that such child or children may be excused from such attendance upon a written application to the school board by the parent, guardian or person having control of such child or children for the whole or any part of such period by the school board or board of education of the school district in which such parent guardian or person having control over such child or children resides, upon its being shown to the satisfaction of such board:

(1) That such parent, guardian or other person having control is not able by reason of poverty to clothe such child properly; or

(2) That such child's bodily or mental condition is such as to prevent his attendance at school or application to study for the period required; or

(3) That such child has already completed the studies ordinarily required in the eighth grade; or

(4) That there is no public school within reasonable distance of his residence.

A record of such excuses granted shall be spread upon the minutes of the meeting of the board and a copy of the same, duly signed by two members of the board, shall be given to the applicant. (Sec. 1, c. 400, 1909.)

The words "of or between the ages of eight and sixteen years" in Chapter 400, Laws 1909, cover and embrace all school children who have attained the age of eight years, and until they have reached their seventeenth birthday.—Simpson, Jan. 5, 1910.

The question as to what is a reasonable distance within which to compel a child to go to school under the compulsory school law, is more a question of fact than of law, and what might be a reasonable distance for a child who is strong and healthy, would be unreasonable if applied to one not thus favored. The question must remain one to be determined under the circumstances of each case, according to the best judgment of the school board.—Simpson, April 13, 1909.

60. Duty of clerk, and compensation—The clerk of each school district wherein a truant officer is not regularly employed shall, during the month of August in each year, make out in triplicate a complete list of all children of school age residing in his school district together with the name and postoffice address of the parent, guardian or person in charge of such child or children, if known.

He shall certify to this list, send one copy to the county superintendent of schools on or before the first day of September in each year; one copy shall be retained by the clerk with his records; and one copy together with a record of excuses granted, if there be any, he shall deliver to the principal teacher of his school during the first month of school in his district and such additional excuses as the board may grant shall be reported to the principal teacher in like manner within five (5) days of the granting thereof.

Such clerk shall receive as full compensation for the services required of him by this act three (3) cents for each pupil enumerated in the list prepared by him up to one hundred (100) names and for any names in excess of one hundred (100) he shall receive two (2) cents per name.

Such payment shall be made from the general fund of his district in the same manner as other claims are paid. (Sec. 2. c. 400, 1909.)

61. Teacher to report to county superintendent—Every teacher within five days of the receipt of the clerk's list of children of school age and record of excuses granted by the board, shall report to the county superintendent of schools the names of the children who do not attend school and who have not been excused by the board, and he shall make a similar report each succeeding month of school. (Sec. 3. c. 400, 1909.)

62. County superintendent to report to county attorney—Penalty for violation—The county superintendent of schools shall report all cases of unexcused non-attendance to the county attorney, who shall notify the parent, guardian or person in charge to send such child or children to school, and upon their neglect or refusal for a period of ten (10) days to comply with the notification and to send such child or children to school, the county superintendent shall upon request of the county attorney make and file a criminal complaint against such person or persons so neglecting or refusing, in any court in any said county, having jurisdiction of the trial of misdemeanors, and upon the making of such complaint a warrant shall be issued and proceedings and trial be had as by law provided in case of misdemeanors; and all prosecutions under this chapter shall be conducted by the county attorney of the county wherein the offense is committed.

Any person who shall fail or refuse to send to or keep in school any child or children of whom he has legal charge or control, and who is required by law to attend school, when notified so to do as hereinbefore provided, and any person who induces or attempts to

induce any child unlawfully to absent himself from school, or who knowingly harbors or employs while school is in session any child unlawfully absent from school, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed fifty (50) dollars or by imprisonment in the county jail for not more than thirty (30) days.

Any school district clerk, teacher or county superintendent of schools refusing, failing or neglecting to perform any duty imposed upon him by the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine of not to exceed ten (10) dollars or by imprisonment in the county jail not to exceed ten (10) days.

All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which such offense is committed. (Sec. 4, c. 400, 1909.)

CHAPTER XV.

BONDS.

63. **Bonds, how issued**—The trustees or board of education of any school district in this state, whether such district be organized by or under any special law of this state, or otherwise, are hereby authorized and fully empowered to issue the orders or bonds of their respective districts, with coupons, in such amounts and at such periods as they may be directed by a vote of a majority in favor thereof of the legal voters present and voting at any annual meeting, or at any special meeting, called for the purpose, of the district; said orders or bonds to be payable in such amounts and at such times, not exceeding fifteen years, as the legal voters thereof at such meeting shall determine, with interest not to exceed seven per cent per annum; which orders or bonds and coupons shall be signed by the directors and countersigned by the clerk of said district, or by the president of (the) board of education and the clerk of the board of education. (3688 as amended by Chap. 272, 1905.)

64. **Vote required**—No bonds of a school district shall be issued without the approval, first obtained, of a majority of the legal voters, present and voting, at a special election called for the purpose, or at any annual meeting, in the notice whereof, the proposed issue shall have been plainly submitted for approval or rejection. (3688 as amended by c. 272, 1905.)

Authority given to issue bonds for a school house implies the power to sell them.—17 M. 412 (Gil. 391).

The minutes of a meeting upon the issuance of bonds were kept by the secretary, and the next day he transcribed them into the records. In such case the records, and not the minutes, are the original; and such record is the evidence.—17 M. 412 (Gil. 391).

Notice of special meeting to vote upon the issue of bonds should state the hour of opening and closing the polls.—Young, April 24, 1908.

65. **Bonds, for what purposes**—When the voters of a school district shall have resolved that it is expedient to borrow money for one or more of the purposes hereinafter named, and a proposition so to do shall have been duly submitted to and approved by the voters, the bonds of such school district, including special and independent districts, whether lying within a city or village, or not, may be issued for the purchase of sites for school houses and for defraying the expenses incurred and to be incurred in building, rebuilding, remodeling, repairing, and furnishing school houses, and installing heating and ventilating and plumbing plants in the same, and equipping the

same with libraries, apparatus, and other school furniture. (784, amended by c. 261 1909.)

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66. Bonds and loans from the state—The state loans money on school bonds at a rate not less than four per cent per annum, and for such time as may be determined. If a district wishes to borrow money from the state, application should be made to the State Auditor at St. Paul, for necessary blanks and full information. Consult, also, the law authorizing such loans. (c. 122, 1907.)

CHAPTER XVI.

TAXES.

67. District school taxes—In common districts the school tax shall not exceed fifteen mills on the dollar for the support of the schools, or ten mills for the purchase of school sites and the erection and equipment of school houses; but in such districts in which such ten-mill tax will not produce six hundred dollars a greater tax may be levied for school sites and buildings, not to exceed twenty-five mills on the dollar nor six hundred dollars in amount. In common districts having less than ten voters the district school tax shall not exceed four hundred dollars. In independent school districts no tax in excess of eight mills on the dollar shall be levied for the purchase of school sites and the erection of school houses. In special districts such amounts may be levied as may be allowed by special law at the time when the Revised Laws take effect. (Sec. 1414, Revised Laws 1905, as amended by c. 458, 1909.)

County officers have nothing to do with levying school taxes for independent districts, except to extend them on the tax lists and collect them. The district determines the amount.—71 M. 283.

Levy by an independent district in separate funds authorized.—75 M. 456.

The board of an independent district has power to levy taxes for the support of the schools of the district in excess of the 15 mills on the dollar.—87 M. 234.

The school board, and not the electors, of an independent district has the power to levy taxes and to determine the length of school to be held.—Young, June, 1906.

The limitation of 15 mills for the maintenance of schools and 10 mills for erection of school house includes all taxes levied for school purposes, including tax to meet interest and principal of bonds, under Sec. 1414, R. L.—Douglas, p. 137.

68. Taxes to be certified—The taxes voted by school districts shall be certified by the proper authorities to the county auditor on or before October 10, in each year. (869)

69. Contracts in excess void—Liability of officers—It shall be unlawful for the authorities of any county, town, city, village, or school district, unless expressly authorized by law, to contract any debt or incur any pecuniary liability for the payment of either the principal or the interest of which during the current or any subsequent years it shall be necessary to levy a rate of taxes higher than the maximum prescribed by law. Every such contract shall be null and void in regard to any obligation thereby sought to be imposed upon such corporation; but every officer, agent, or member thereof

who participates in or authorizes the making of such contract shall be individually liable for its performance. Every such officer or agent who is present when such contract is made or authorized shall be deemed to participate in or authorize the making thereof, as the case may be, unless he enter or cause to be entered his dissent therefrom in the records of such corporation. (874)

CHAPTER XVII.

TEACHERS.

70. **Qualified teachers**—A qualified teacher is one holding a certificate or license to teach as hereinafter provided, in the school or grade for which he is employed. Contracts for teaching can only be made with qualified teachers. Contracts made with persons before obtaining such certificates or licenses shall only be valid from the time of obtaining the proper certificate or license. (1343)

A contract by a district to hire a teacher who has not procured the required certificate is void.—12 M. 448 (Gil. 337).

71. **Hiring of teachers**—School boards shall hire teachers at meetings called for that purpose. No teacher related by blood or marriage to a trustee shall be employed, except by a unanimous vote of the full board. The employment shall be by written contract, signed by the teacher, and, in common districts, by at least two of the trustees; in special and independent districts, by the chairman and clerk. Such contract shall specify the time of employment, and the wages per month. (1344.)

A teacher who has no certificate at time of entering into a verbal contract, but obtains one shortly after and enters into a written contract and teaches the school for the contract term, may recover at the contract rate from date of written contract.—20 M. 72 (Gil. 57).

A contract to hire a teacher not having a certificate is void.—27 M. 433.

Where a contract purporting on its face to have been made by the district and teacher is signed by the teacher and two persons as director and treasurer, the implication is that such persons are the director and treasurer and therefore two of the board such as are authorized to make the contract.—27 M. 433.

When an order has been legally issued to a teacher for the amount due her, and has been presented and payment demanded and refused, she may maintain action against the district, even though a writ of mandamus might lie against the treasurer.—35 M. 309.

A contract between a teacher and the trustees of a district must be in writing and signed by such teacher and a majority of the trustees.—39 M. 459.

An oral contract by a teacher with a school board is not valid, and no recovery can be had for services thereunder.—77 M. 469.

The act of a school board whereby teachers employed by it were required to sign a contract consenting that a percentage of the salary should be deducted to provide annuities or pensions for teachers becoming incapacitated, is not authorized by law, and is void.—87 M. 130.

When, at request of the board of an independent district, a county superintendent issues to a teacher a certificate of qualification under a statute then repealed, a contract with such teacher based upon such certificate is valid.—90 M. 111.

The board of a common district may, prior to the annual meeting, employ a teacher for the ensuing year and bind the district for the legal five months and for such further time as shall be fixed by the electors at such meeting.—93 M. 411.

If a teacher holds a valid certificate at the time of making a contract which extends beyond the life of the certificate, such contract is good, and will remain so as long as the teacher is in possession of a valid certificate and until the contract expires by its own terms.—Clapp, Oct. 12, 1891.

As a general proposition the board may discharge a teacher at pleasure. It is incumbent upon them, however, to see to it that the cause is good and sufficient, otherwise the district is not relieved of the contract made with the teacher. The only provision which can possibly operate to deprive the board of the power of discharging a teacher is that which authorizes the county superintendent to revoke a certificate for proper cause. I am of the opinion that such provision is not exclusive. The officers of the district should possess the power of summary dismissal if the best interests of the school so require. Cases may arise where the conduct of the teacher is flagrantly immoral and corrupting and calling for the most summary action on the part of the board. Certainly, the legislature did not intend to so abridge the authority of the board as to render them powerless in such a case. These views are fairly sustained by the following cases: *Boys v. State*, 6 Neb. 167; *Smartwood v. Walbridge*, 57 Ham. 33; *Fisk v. Board*, 69 Hun, 212; *Tripp v. School Board*, 7 N. W. 840. As the teacher may enforce his contract against the district, notwithstanding his discharge, unless justified by the facts, the board should advise itself by careful inquiry in any suitable manner, that a just ground for discharge exists.—Childs, Sept. 21, 1896.

Teachers cannot enforce verbal contracts which the law requires to be in writing.—Douglas, Jan. 4, 1901.

A strict construction of this section would compel the conclusion that a legal contract with a teacher cannot be made at any time other than at a meeting of the board called for the purpose; but if there were such a meeting at which the minds of the board and the teacher met in a verbal contract, and the contract as so made reduced to writing and signed afterward, it would be valid.—Young, p. 180.

A teacher who is ready and willing to perform the services provided for in her contract, and who is prevented from doing so by an epidemic of smallpox or any other reason, is entitled to recover her wages, even though her contract reads "for actual service rendered."—Young, p. 194.

Undes Secs. 1344 and 1326, R. L., a teacher's wages must be paid by orders drawn by the clerk upon the treasurer. Such orders may be discounted by the teacher, if so disposed, at less than face value; and if not paid when presented, may be reduced to judgment for the full amount against the district. This is the teacher's only remedy.—Young, p. 199.

Teachers cannot be compelled to make up time lost by reason of an epidemic of disease, and the board cannot refuse to pay them for such lost time; but if the teachers voluntarily acquiesce in an arrangement of

the board to make up the lost time, they cannot demand extra pay.—Young, p. 204.

The board of a common school district cannot bind the district by a contract with a teacher for more than five months; but a contract for a longer period will be valid for such five months, but not for the excess, unless it be ratified by the district at a valid meeting.

Where the teacher is hired verbally at the meeting of the board, called for that purpose, but the contract is not reduced to writing and signed until afterward, the contract is valid under Sec. 1344, R. L.

A contract made with a teacher who holds a valid certificate, but who has not filed it for record at the time the contract is made, and who files it afterward, is valid under Chap. 137, Laws 1905. However, if the board should, during the interval between such contract and the filing of such certificate, employ another teacher who has filed her certificate, the latter would prevail. However, teachers should file their certificates before entering into contracts.—Young, June, 1906.

The board of trustees of a school district may, prior to the regular annual election held in July, employ a teacher for the ensuing year, and bind the district not only for the period of five months required by law, but during such further time as may be fixed or established by the electors at such meeting.—Norton vs. Wilkes, 93 M. 411.

A qualified teacher hired at a meeting of the board, properly called for that purpose, whose contract is signed by two members of the board, has a legal teacher's contract.—Simpson, March 30, 1909.

In the absence of an express provision in the contract with a teacher, so specifying, it is not obligatory upon the teacher to do the janitor work of the school house.—Simpson, Jan. 6, 1910.

It is the duty of the school board to see that all necessary matters are attended to, in order that the schools of the district may accomplish the purpose for which they are instituted, under the general power vested in the board, and where the matter is not mentioned in the teacher's contract, and there has been no oral understanding that the teacher should act as janitor, it is the imperative duty of the board to furnish a janitor to sweep the school rooms, build the fires, and keep the rooms in suitable condition for school purposes.—Simpson, Dec. 3, 1909.

The statute provides that (Sec. 1344, R. L. 1905) "No teacher related by blood or marriage to a trustee shall be employed, except by a unanimous vote of the full board." Therefore, every member of the board must vote in favor of the employment of such a teacher, to make the contract of employment valid, and if a member of the board attends the meeting and does not vote, or is not present at the meeting, and consequently does not vote in favor of the employment, the contract would not be legal, and if a teacher related, by blood or marriage, to a trustee, has a contract, where the employment has not been voted for by each member of the board, even though the teacher should actually render services in teaching, he could not collect pay for the same.—Young, Sept. 8, 1908.

If, in the exercise of sound judgment and discretion, a school board determines that indulging in certain pastimes outside of school hours, by teachers, is detrimental to the work of the school, it will be competent for the board to make a rule forbidding such indulgence, on evenings succeeding school days. If, under all the facts and circumstances, such a rule and regulation is a reasonable one, and the action of a teacher in violating

such rule is detrimental to the best interests of the school, then such failure to comply with the rule and regulation would be a cause for removal of such teacher, though the question, in each particular case, as to the reasonableness of the rule, might ultimately have to be passed upon by the court.—Simpson, Nov. 4, 1909.

School boards and boards of education in independent districts have the right to grant their teachers permission to close their schools without loss of pay, for the purpose of attending a state teachers' convention.—Simpson, May 8, 1909.

The statute contemplates the payment of teachers' wages at the end of each month's services, and there is no authority for a school board retaining the monthly wages of teachers two weeks after the end of the month.—Simpson, Oct. 6, 1909.

71A. General control of schools—The teacher shall have the general control and government of the school. When more than one teacher is employed in any district, one of the teachers may be designated by the board as principal, and shall have the general control and supervision of the schools of the district, subject to the general supervisory control of the board and other officers. (1336)

72. Length of school—The schools shall be maintained not less than five nor more than ten months, but this provision shall not apply to night schools or kindergartens. The school month shall consist of four weeks. Every Saturday shall be a school holiday, and all legal holidays shall be counted as a part of the school week. (1337)

73. Instruction in public schools—The books used and the instruction given in public schools shall be in the English language, but any other language may be used by teachers in explaining to pupils who understand such language the meaning of English words; and in high and graded schools other languages may be taught, when made part of a regular or optional course of study. Instruction may also be given in such languages in common schools, not to exceed one hour in each day, by unanimous vote of the trustees. (1338)

If unanimously authorized by the board, but under no other circumstances, a foreign language may be taught for not more than one hour in any school day as a part of the instruction in a public school. If a teacher violates this law, she violates her contract and is not entitled to compensation out of the treasury; and may be compelled by legal proceedings to obey the law.—Young, p. 184.

"Are trustees required by law to cause schools to be taught in the English language?" The school laws prescribe those branches of study which are to be taught in our common schools. The languages are not included. That those branches are to be taught in the English language it requires no argument to prove. The government has yet to exist which will expend the contents of its treasury to the neglect of its own language in educating its citizens in the language of a foreign country whose institutions and laws are at variance with its own.—Cole, p. 76.

Proviso First.—A school in which the instruction is given in foreign languages cannot be regarded as in any sense a public school; no taxes

can be legally levied for the support of such a school, and it is the duty of the county superintendent to see to it that such a school receive no part of the apportionment of the public money.

74. Instruction in morals, etc.—The teachers in all public schools shall give instruction in morals, in physiology and hygiene, and in the effects of narcotics and stimulants. (1347 R. L. 1905.)

You inquire whether it is lawful to open a public school with a recital of the Lord's prayer. The question involves a construction of Sec. 16 of Article I of the constitution, wherein it is, amongst other things, provided: "Nor shall any man be compelled to attend, erect, or support any place of worship." * * * No distinction can, in principle, be drawn, between the opening of school with prayer, or the reading of the Scriptures, so far as the question pertains to the violation of the provision above named. * * * In view of the decision by the Supreme Court, you are advised that the practice, however, frequently tolerated or indulged in, is violative of the constitution.—Childs, Dec. 10, 1895.

In the case of *Rasnick vs. District No. 60, Stearns County*, April 24, 1897, in the district court, it was held that a public school house cannot be used, either in or out of school hours, for the purpose of giving any religious instruction, or the conducting of any religious exercises therein, which are peculiar to the distinctive teachings, practices, doctrines, creed, tenets, or beliefs of any religious faith, church, or denomination, and particularly from using or allowing the school house to be used for the same, of any of the prayers or the teachings of the catechism, or the conducting of any of the religious exercises mentioned herein.

CHAPTER XVIII.

SCHOOL HOLIDAYS.

75. **Holidays**—The word “holiday” shall include New Year's Day, January 1; Lincoln's Birthday, February 12; Washington's Birthday, February 22; Memorial Day, May 30; Independence Day, July 4; Labor Day, first Monday in September; election day, the first Tuesday after the first Monday in November of the even numbered years; Christmas Day, December 25; and the Friday next preceding Easter Sunday and commonly known as Good Friday. No public business shall be transacted on those days, except in cases of necessity, nor shall any civil process be served thereon. (Chap. 254, 1907, amending Sec. 5514.)

Legal holidays are school holidays also.—Young, February, 1907.

CHAPTER XIX.

TUITION.

76. Public schools—Tuition free—All schools supported in whole or in part by state school funds shall be styled public schools, and admission to and tuition therein shall be free to all persons between the ages of five and twenty-one years, in the district in which such pupil resides; Provided, that the school board of any district may, by resolution, exclude all children under six years of age. (1279)

A school board has no authority to exclude a child of school age from school during any portion of the school year; and such child is entitled to admission whenever the minimum age is reached, whether the same be at the beginning or during any part of a school term or year; construing Sections 1279 and 1402. R. L.—Young, March, 1907.

A school board has no power to exclude a pupil who uses tobacco from the public school. The use of tobacco by students is not wholly prohibited by the statutes.—Young, p. 206.

Those entitled to admission to the public schools are (1) the children of the actual residents in the district; and (2) all other persons between the ages of five and twenty-one who may be in good faith living in the district. If the parents are in good faith living in the district, although temporarily, the children would be entitled to admission to the school.—Wilson, p. 396. (See, also, Par. 31, 1897, c. 252.)

Whether a minor whose parents reside in another part of the state has a right to attend school in your district depends upon whether said minor is a resident of your district.—Colville, p. 235.

Residence acquired by students in attendance upon any seminary of learning, or by inmates of any charitable institution, or of a public prison for reformation or punishment, is not of such character as to give the right to attend the district school of the place, or to be enrolled for apportionment in such district.—Cornell, p. 257.

While a parent could not, for the colorable purpose of evading the law, send his children to board in another district for the mere object of attending school, I entertain no doubt that a scholar actually and in good faith domiciled in the district would be entitled to the benefits of the school without regard to the residence of his parents.—Cole, p. 106.

The right to free tuition depends upon the residence of the pupil claiming it without regard to the residence of his parents. If a child comes into a district for the mere purpose of attending school, the board, in its discretion, may charge tuition, or exclude him altogether. On the other hand, a child who actually resides in a district is entitled to school privileges without charge.

“What are the relative powers and duties of trustees and teachers in reference to the discipline and management of schools?”

For insubordination, immorality, or infectious disease, the board may expel any scholar. It is made the duty of each member of the board at least once in each term to visit the schools and give such advice to the teacher as may be for the benefit of the schools, and they are intrusted with the general charge of the interests of the schools and school houses in their districts, and are especially authorized to employ teachers having the requisite certificate of qualification. There are the principal provisions bearing upon the question under consideration, and they seem to leave no doubt that with the single exception of the power of expulsion for the causes specified in the statute, the authority of the trustees over the interior management of the schools is solely advisory in its character. The responsibility for the correct government and discipline of the school, as well as the adoption of such methods of teaching as seem best calculated to promote the advancement of the scholars in their several branches of study, rests solely with the teacher. Of course there ought and always will be a mutual interchange of views, and a cordial co-operation between teachers and trustees in all these matters, whenever a regard is had to the important interests intrusted to their charge. The law prescribes what studies shall and what may be taught in our common schools, as well as the text books to be used; and in determining within this limit what particular study any pupil shall pursue, the teacher always ought to consult the wishes of its parents or guardian, and conform to them so far as practicable, having due regard to the present attainments and proficiency of the pupil, and the general interests of the school.—Cornell, p. 265.

There is no doubt of the right of the parent to send his children into any district he may select so long as he is willing to assume the extra burden thereby imposed upon him.—Clapp, May 3, 1888.

Corporal Punishment.—To use * * * force or violence upon * * * the person of another is not unlawful * * * when committed by a * * * teacher, in the exercise of a lawful authority to restrain or correct his * * * scholar, and the force or violence used is reasonable in manner and moderate in degree.

The mere designation of tuition charge as "book rent" when in fact it is a tuition charge, will not in any way affect the law or warrant the drawing of apportionment for pupils paying such "book rent."—Simpson, March 8, 1909.

Practical Suggestions to School Boards.

By Julius Boraas, Superintendent, Goodhue County.

CHAPTER XX.

HIRING TEACHERS.

Hiring a teacher is the most important duty of the school board. The problem is to get the best teacher that the salary offered will secure. Long observation has taught that to accomplish this end the following suggestions will be helpful:

1. Only a good salary can be expected to secure a good teacher. A wise school board will therefore inquire of the county superintendent concerning the average salaries paid in the county, and if it is desired to get a teacher better than the average, the salary will be fixed accordingly. Increasing a salary by twenty-five per cent will frequently secure a teacher whose work is fifty per cent above what could be secured for the lower salary.

2. All things considered, it is better to hire a known teacher than to take chances on one who is not known. If the previous teacher has given good satisfaction, it is a wise policy to offer the school to the same person again.

3. School boards wishing to secure the best teachers must hire early. Waiting for applications will take too long. A better plan consists in early selecting a member of the board to act as a special committee as to the teacher for the ensuing year. Such a member should then write to the county superintendent for a list of the best teachers available, and make such other inquiries as will bring him the desired information. Suitable candidates will be asked to apply for the school, and when the board is called together to decide upon the teacher, they have a good chance to select from the best that can be found. School boards delaying too long in hiring a teacher must as a rule be satisfied with accepting candidates not wanted by other school boards.

4. When applications are made by teachers who are strangers careful inquiry should be made as to their previous experience and success. Only first-hand information should be accepted as sufficient. By corresponding with the superintendent or the members of the board where the applicant has taught, the necessary information can readily be secured.

5. It is becoming more and more common for progressive school boards to hire the teacher before the annual meeting. Although a board at that time cannot make a contract for a longer term than five months, the length of the school year in most districts is sufficiently uniform to make the plan entirely practical. Especially is this true in the state-aided schools.

6. To be valid, the law demands that a teacher's contract shall be in writing, and the teacher must hold a certificate covering the period of the contract. Agreements should always be made concerning the duties of the teacher, in connection with the building of fires, sweeping of floors, and acting as janitor in general, for unless the teacher agrees to perform janitor services, it is the imperative duty of the board to make other provision for the same.

CHAPTER XXI.

CARE OF THE SCHOOL PROPERTY.

An up-to-date, progressive school must have modern equipment, properly taken care of, if it is to produce the best results. A school board will always be known by the way in which it provides and cares for the equipment and general management of the school in its charge. For convenience, it may be well here to enumerate those things which the best authorities now regard as essentials in a good rural school:

1. A good-sized school ground, with trees and lawn, properly cared for. Some one should be regularly employed to care for the grounds during the vacations of the school, so that they may always be in a condition worthy of the community in which the school is located.

2. A good school building and necessary out-buildings, kept in good repair. To accommodate a fair-sized school, a room should be about 24 feet wide, 30 feet long, and 13 feet high. The light should be admitted from the left side of the pupils, as they are seated at their desks. The windows should reach to within six inches of the ceiling, and the glass area of the windows should be at least one-fifth of the area of the school room floor. The walls should be of a light greenish-gray color; the ceiling should be white, or nearly so; the window shades should be sufficiently transparent to admit the light, while excluding the direct rays of the sun. The floors should be of maple, birch, oak, or first-quality Georgia pine.

The equipment should include a good heating plant, of an approved kind, a satisfactory ventilating system, free text books, a library, slate blackboards placed thirty inches from the floor, a globe, a set of maps, a reading chart, text-book and library records, book-cases, a water cooler with faucet, (the pupils should be required to use individual drinking cups) floor brushes or brooms, a quantity of sweeping compound, door mats, scrapers, etc. There should be four sizes of single desks, so placed that only one size will be found in any one row. The teacher's desk should have suitable drawers for the keeping of records and materials.

Where some luxury can be afforded, the following will be found desirable: An organ, a few framed pictures, belfry and bell, flag and flag-pole, etc.

If not furnished free, a suitable supply of stationery should be kept on hand and sold at cost to the pupils. To facilitate the work of the board, it is a good plan to select one of the officers as a committee on equipment. This will secure better and more direct care of the equipment, and will make it possible to enforce a more careful use of it by the pupils. A definite responsibility is always preferable; what is everybody's business is too often regarded as nobody's.

CHAPTER XXII.

CARE AND GOVERNMENT OF SCHOOL.

The principal duties of the school board with regard to the conduct of the school, as specified in the law, may be summarized as follows:

1. To make all necessary rules for the organization, government and instruction of the school, to provide the required records and insist upon their being kept as directed, to adopt text books and courses of study, and to visit the school at least once in two months.

2. To provide for the admission of non-resident pupils, and those above school age, and to fix the rate of tuition for such pupils. And in regard to this it is well to remember that a non-resident owning at least eighty acres of land in the district has the right to send his children to the school of such district without paying tuition.

3. To make rules for the protection of the school property, and to prescribe penalties for abuse of the same.

4. When deemed advisable, the school may be closed, and provision made for the instruction of the children in an adjoining school. (See Sec. 33, Chap. 8.)

5. The compulsory education law enacted in 1909 places the following duties on the school board: During the month of August the clerk must make, in triplicate, a list of all children of school age, residing in his school district, together with the name and post office address of the parent, guardian or person in charge of such child or children, if known. He shall certify to the list, send one copy to the county superintendent of schools on or before the first day of September in each year, one copy should be retained by the clerk with his records, and one copy, together with a record of excuses granted, if there be any, he shall deliver to the principal teacher of his school during the first month of school in his district, and such additional excuses as the board may grant shall be reported to the principal teacher, in like manner, within five days of the granting thereof. On application of a parent or guardian, the school board may excuse a child from part or all of the required attendance for any of the following reasons: Poverty, illness, completion of the work of the eighth grade, residence not being within reasonable distance from the school. Within five days of the granting of an excuse, the clerk must notify the teacher thereof.

In addition to the points already noted, the following have been found helpful in furthering the welfare of the schools:

1. An effort should be made to get every child enrolled in the school, whether of compulsory school age or not, to attend as regularly as possible, so that no pupil may fail to draw his share of public money for the district.

2. In case of pupils of the first and second grade, it may be advisable, if the conditions seem favorable, to allow the teacher to dismiss them earlier than the older pupils. This is the practice in all city schools, and could be followed with advantage in many rural schools.

3. It is an excellent plan, during the school year, to hold occasional meetings of the board. These meetings should, if possible, be held in the schoolhouse, and the teacher should be invited to attend, so that the needs of the school may be discussed.

4. No school is successful unless order and discipline is maintained, and the school board can do much to help the teacher in that respect. If the pupils understand that the board will uphold the teacher in all reasonable efforts to keep the school in order, and that prompt action will be taken if anyone shows wilful disobedience, the work of the school will be much easier to direct. As a school board may take steps to have an incorrigible child committed to the state training school, it has sufficient backing for enforcing all reasonable rules or demands that are made.

5. Children should be taught to have due respect for public property, and every school board should see to it that no vandalism is allowed, either during the school hours or at other times.

CHAPTER XXIII.

CARE OR THE FINANCES.

The Tax Levy in Common Districts.

The school board shall submit to the annual school meeting an estimate of the expenses of the district for the ensuing year, for a five months' school, and for such further time as may be decided by the meeting. If the meeting fails to vote a sufficient tax for such time, the board shall levy a tax. The amount levied must be reported to the county auditor on or before the 10th of October. The maximum tax that can be levied is fifteen mills on the dollar for expenses, and 10 mills for the erection of schoolhouse.

Orders.

Orders issued by the school clerk must be countersigned by the chairman of the board before being paid by the treasurer. In the absence, inability, or refusal of the clerk to issue orders for the payment of money authorized by a vote of a majority of the board, the orders may be drawn by the chairman and paid by the treasurer. In such case, a statement with a copy of the orders, must be delivered to the clerk. When the treasurer has no funds for the payment of an order, he may accept the order, by signing it in the manner indicated on the order, after which it bears interest at the rate of 6 per cent.

Tax Levy in Independent Districts.

In independent districts the school board shall provide by a levy of tax, for the necessary funds for the conduct of the schools, the payment of indebtedness, and all proper expenses of the district, and while no tax in excess of 8 mills on the dollar shall be levied for the purchase of school sites, and the erection of schoolhouses, no limitation as to the amount that can be raised for current expenses is prescribed by law.

CHAPTER XXIV.

CARE OF THE HEALTH.

As authorized by law, the State Board of Health has issued and published the following regulations, and any violation of them is punishable:

No principal, superintendent, or teacher of any school, and no parent, master or guardian of any child or minor, having the power and authority to prevent, shall permit any such child or minor having smallpox, scarlet fever, diphtheria, measles, chicken pox, tuberculosis, influenza, tonsillitis, erysipelas, whooping cough, mumps, itch, ringworm or trachoma, or any other dangerous communicable disease, or any child residing in any house in which any such disease exists, or has recently existed, to attend any public, private, parochial, church or Sunday school, until the local health officer of the city, village or township, shall have given his permission for such attendance.

A school house wherein a child suffering from smallpox, scarlet fever or diphtheria has been present shall be deemed infected, and must be temporarily closed and thoroughly disinfected and cleaned, under the supervision of the local health officer, before re-opening of the school. Such disinfection and cleaning shall be done according to directions of the Minnesota State Board of Health, in its circular on disinfection.

All school houses shall be inspected from time to time, by the local health officer, and if found to be in an unclean or unsanitary condition, said officer shall forthwith order that the place be closed, and kept closed, until it has been properly cleaned or disinfected, or both, as the case may require.

Whenever it is proposed to build a new school house, the plans and specifications for the same, in respect to sanitary conditions, shall be submitted and filed with the Minnesota State Board of Health, and no such building shall be constructed until the sanitary arrangements of the same have been approved by the said board.

CHAPTER XXV.

List of Supplies Furnished Through the Office of the County Superintendent.

The following supplies may be obtained from the county superintendent of schools, and are furnished free of charge, by the state:

Clerk's record book, treasurer's record book, clerk's blank orders, clerk's annual report blank, common school register, graded school register, teacher's contract blank, common school teacher's term report blank, graded school teacher's term report blank, graded school principal's report blank, library catalog, library order blank, library book list blank, text book price list, dictionary order blank, common school course of study, blank for application for state aid.

CHAPTER XXVI.

REGULATIONS RELATING TO CONSTRUCTION OF SCHOOL BUILDINGS.

Issued by the State Board of Health.

146. No school room, or class room, except an assembly room, shall have a seating capacity that will provide less than eighteen square feet of floor space and two hundred sixteen cubic feet of air space per pupil, and no ceiling in buildings hereafter to be erected shall be less than twelve feet from the floor.

147. A system of ventilation, in order to be approved by the Minnesota State Board of Health, shall be capable of furnishing not less than thirty cubic feet of air per minute for each person that the room will accommodate when the difference of the temperature between the outside air and the air in the school room shall be thirty degrees F. or more.

148. In a gravity system of ventilation in connection with a furnace or steam plant, the flues for admitting fresh air to the room shall have a horizontal area of not less than one square foot for every nine persons that the room will accommodate.

149. The flues for a "plenum fan" system of ventilation shall have a horizontal area of not less than one square foot for every fifteen persons that the room will accommodate. The ventilation of school buildings by this system shall be so designed that the air pressure in any class room shall be in excess of that of the outside air.

**149a. The direct indirect system of ventilating shall not be used. By "direct indirect" is meant the introduction of cold air from the outside of the building at the base of a "direct" radiator. (See Engineer's report October 5, 1909.)

150. The glass area of windows shall equal one-fifth of the floor area of the school room.

151. In all rooms not exceeding twenty-five feet in width all the light shall be admitted to the left of the pupils.

152. In rooms exceeding twenty-five feet in width, light shall be admitted to the left and rear of pupils.

153. Translucent instead of opaque shades shall be used in the windows for controlling the light.

154. The top of the windows shall be as near the ceiling as the mechanical construction of the building will allow.

155. No cloak room shall be less than six feet wide, nor shall have less than one window.

156 The so-called "sanitary wardrobe" which allows the foul air of the room to pass through the clothing of the children before passing into the vent duct, shall be condemned as unsanitary.

*156a. One- and two-room buildings heated by hot air, stoves or furnaces, shall have a cold air intake, the cross section of which is equal to 0.004 of the floor area of the room or rooms heated. The vent flue shall have a net area equal to that of the cold air intake. (See Engineer's report July 20, 1909.)

*The starred sections and the bold-face portions are new.

INDEX.

References in this index are to sections, except where pages and chapters are specifically referred to.

	Sections.
A.	
ACCEPTANCE	
Of office by school officers; when and how.....	20
ACCOUNTS	
Of district clerk; how kept.....	23
Of district treasurer; how kept.....	24
ACTIONS	
By school districts, character of actions.....	39
Against districts, in what cases	40
When trustees resign	41
Against district after change of name.....Note.	40
ADMISSION	
Free to public schools	76
ADVERTISING	
For bids in letting contract to build school house.....Note.	31
AGE	
Of children entitled to attend public schools.....	76
Of children who must attend school under compulsory education law	59
"Of or between the ages of 8 and 16 years" defined.....Note.	59
ANNUAL MEETING. (See School Meeting.)	
APPEALS	
From orders of formation of school districts.....	6
From orders for change of boundaries of districts.....	6-7
Pending appeal from order dividing district, treasurer to retain money apportioned	Note. 6
From order organizing district from parts of districts in different counties, who may appeal	Note. 6
APPORTIONMENTS	
Of school funds in new, changed, or divided districts.....	8
Of funds in the treasury for building a school house, and thereafter school district is divided.....Note.	8
B.	
BALLOT	
School officers must be elected by.....	17
Plurality vote elects	17
Polls open one hour, and ballots counted, cannot thereafter be opened and another ballot taken.....Note.	18
BIBLE	
Reading from scriptures in school violative of constitution...Note.	74
BIDS	
Advertising for in letting contract for building school house..Note.	31
BLANKS	
To be furnished by county superintendent.....Chap.	25
BOARDS. (See District Boards—Common and Independent.)	
BONDS	
Official, of school district treasurer.....	22

BONDS	Sections.
How and when issued by school boards.....	63
Purposes for which bonds may be issued.....	65
Vote required to issue bonds	64
For loans from the state	66
BOOKS. (See also Text-Books.)	
Of account, to be kept by clerk.....	23
Used in public schools to be in English language.....	73
BOUNDARIES. (See Districts, School.)	
Of school, districts, how changed.....	7
When changed, division and award of moneys, etc.....	Notes, 7-8
Tax levied but not collected before division subject to distribution	Note, 7
Duties county auditor, what.....	9
C.	
CHAIRMAN	
Election of	12
Shall preside at meetings of board.....	25
Shall countersign all orders	25
Shall represent district in all actions.....	25
Shall perform all duties usually incumbent on such officer.....	25
Powers of, on failure of clerk to perform duty.....	25
Attesting illegal order, penalty	55
CHILDREN	
To be sent to school, compulsory education law.....	59
Meaning of "of or between the ages of 8 and 16 years".....	Note, 59
Reasonable distance within which to compel child to attend school	Note, 59
Entitled to attend public schools, age of.....	76
When and how excused for non-attendance at school.....	59
CLAIMS	
Against districts; power and duty of board as to.....	Sub. 7-31
CLERKS	
To keep books and records	23
To notify persons elected to office.....	23
To make certified annual reports to county superintendents; contents of same	23
Record book, contents	23
To keep itemized account of expenses.....	23
In common districts report to county superintendent time of commencement of terms of school	23
To furnish county auditor attested copy of records.....	23
To draw and sign all orders.....	23
Cannot issue orders to unlicensed teacher.....	Note, 23
Compensation of, in common districts.....	27
Compensation of, in independent districts.....	29
To aid in selection of depositories of funds.....	47
Failure of to make reports, penalty	54
Drawing illegal orders by, penalty.....	55
Neglecting to keep or deliver records.....	56
To report excuses of non-attendance at school, when and to whom.....	60
To report all children of school age in district, when and how.....	60
Compensation of clerk for making reports	60
COLOR	
Classification of pupils as to, prohibited	52
Districts classifying as to, excluded from apportionment.....	52

INDEX.

	Sections.
COMMON SCHOOL DISTRICTS. (See Schools, District Boards, School Meetings.)	
Districts, how formed	1
Contents of petition for formation.....	2
Notice of hearing on petition	3
Proceedings on hearing of petition	4
When district is in two or more counties.....	5
Appeal from order	6
Division of funds where new districts are formed.....	9
Duties of county auditor	9
Boards of, how constituted	12
Members of, when and how elected.....	14
Vacancies in boards of, how filled.....	37
Vacancies, when and how filled by special election.....	38
Notice of election or appointment.....	19
Acceptance of office by members of board.....	20
Oaths, where filed	21
Quorum of board, power to contract.....	30
Rule when part of members refuse to vote.....	Note.
General powers and duties of boards.....	31-32-33
Instruction of pupils in an adjoining district, and transportation of pupils	33
Special duties of boards	35
Duties of clerk	23
Duties of treasurer	24
Duties of chairman	25
Compensation of clerk	27
Compensation of treasurer	28
Depository of funds of	47
Interest on deposited funds	49
Officers not allowed additional compensation for depositing funds.	50
Treasurer not liable for funds lost in depository.....	48
Treasurer personally responsible when he fails to deposit funds which are lost	Note. 48
COMPENSATION	
Of clerk of common district	27
Of treasurer of common district	28
Chairman of common district prohibited from receiving.....	Note. 29
Money cannot be paid out of treasury as compensation to chairman	Note. 29
Compensation of members for attending meeting of school district officers called by superintendent of schools.....	Note. 29
Of officers in independent districts	29
Of clerk for reporting children of school age and excuses for non-attendance	60
COMPULSORY EDUCATION	
All children to be sent to school.....	59
Excuses for not sending children to school.....	59
Duty of clerk and compensation where there is no truant officer.	60
Duty of teacher to report to county superintendent.....	61
County superintendent to report violations to county attorney.....	62
Failure to obey laws relating to, penalty.....	62
Failure of clerk, teacher, or county superintendent to perform duties, penalty	62
Fines collected for benefit of school district.....	62
"Of or between the ages of 8 and 16 years" defined.....	Note. 59
CONTRACTS. (See, also, Teachers.)	
Must be made by a majority of the board at a meeting of which all members have had legal notice	30

	Sections.
How made when part of members refuse to vote.....	Note. 30
With teachers, when and how made; validity of.....	70
Teacher not to perform janitor service unless contract so specifies	Note. 71
In excess of tax by districts, void	69
For text-books, when and how made.....	36A
For free text-books, when and how made.....	36B
CORPORAL PUNISHMENT	
When may be administered by teacher.....	Note. 76
COUNTY AUDITOR	
Duty of, upon formation of new district or division of district.....	9
COUNTY ATTORNEY	
Duty of, when notified of unexcused non-attendance of children at school	62
COUNTY SUPERINTENDENT	
To report to county attorney violations of compulsory education law	62
Must give opinion as to formation of new district.....	Note. 4
COUPONS	
Attached to bonds	63
D.	
DEPOSITORIES	
For school funds, how selected.....	47
Treasurer exempt for loss of funds deposited.....	48
Treasurer liable for loss of funds undeposited.....	Note. 48
Interest on deposited funds belongs to district.....	49
Officers not allowed compensation for depositing funds.....	50
DIRECTORS	
Board of, in independent districts.....	13
Officers of, and how chosen	15
Officers must be elected from members of board.....	Note. 13
May elect a superintendent	13
Rule governing as to vote for superintendent.....	Note. 13
May elect superintendent by Aye and Nay vote; note.....	13
Quorum of board	30
Rule when some members refuse to vote.....	Note. 30
Powers and duties of board	31
May adopt reasonable rules and regulations.....	Note. 31
Rule as to advertising for bids when building school house; note...	31
Additional powers of board	32-34
Special duties of board	36
DISTRICTS, SCHOOL	
Formation of new	1
Contents of petition for forming.....	2
Notice of hearing petition	3
Proceedings on hearing of petition.....	4
When districts are in two or more counties.....	5
Appeal from order of county commissioners.....	6
Change of boundaries of	7
Division of funds where new school districts are formed.....	8
Duties of county auditor upon formation of new, or division of districts	9
Duty of county superintendent as to petition for.....	Note. 4
DISTRICT BOARD, COMMON DISTRICT	
Board consists of chairman, treasurer, clerk.....	12

	Sections.
Members elected for three years each.....	12
Elected by ballot at annual meeting.....	14
To hold office must be a voter and resident of district.....	15
Women may vote for school officers.....	16
Quorum of electors and vote necessary to elect.....	17
Polls at election open one hour.....	18
Notice of election or appointment.....	19
Acceptance of office	20
Oath, where filed	21
Bond of treasurer	22
Duties of clerk	23
Duties of treasurer	24
Duties of chairman	25
Compensation of clerk	27
Compensation of treasurer	28
Quorum for school board meetings	30
Rule when any members refuse to vote.....	Note. 30
Powers and duties of.....	31
Powers of, to select and buy text-books.....	36A
Rules and regulations by.....	Note. 31
Instruction of pupils in, and transportation to other districts.....	33
Free text-books, when and how adopted.....	36B
Special duties of	36
Vacancies in board, how filled.....	37
Special election to fill vacancies.....	38
Tie ballot for election of member creates a vacancy, how filled;	Note. 37
Actions by school board	39
Actions against	40
Action when trustees resign	41
Depositories for district funds, selected by.....	47
Treasurer of, not liable for funds lost in depository.....	48
Treasurer liable for undeposited funds.....	Note. 48
Board members not entitled to compensation for depositing funds.	50
Penalty for excluding or expelling pupils for certain reasons.....	51
Penalty for making improper classification	52
Penalty for refusing to serve on board.....	53
Penalty for clerk failing to make report.....	54
Penalty for clerk drawing illegal order	55
Penalty for clerk neglecting to keep or deliver records.....	56
Penalty for treasurer attesting illegal order	55
Penalty for treasurer knowingly paying illegal order.....	55
Dealing in school supplies, penalty.....	57
Bonds can be issued by	63
Vote of electors required to issue bonds by.....	64
Bonds, for what purpose issued	65
Bonds and loans from the state.....	66
Penalty for making contract for payment of money in excess of tax levy	69
Teachers to be hired by	71
Teachers' contracts to be in writing	71
Teachers' contracts to be signed by at least two members of the board	71
Teacher's contract with, for ensuing year.....	Note. 71
Teacher's contract with, must specify that teacher is to perform janitor service if teacher is to perform such service.....	Note. 71
Teacher's contract with may forbid indulgence in certain pas- times	Note. 71

	Sections.
DISTRICT BOARD, INDEPENDENT DISTRICT	
Members of board elected by ballot at annual meeting.....	14
Member of board must be voter and resident.....	15
Women may vote for members of board.....	16
Quorum of electors and vote necessary to elect.....	17
Polls open one hour	18
Notice of election or appointment	19
Acceptance of office	20
Oath, where filed	21
Treasurer, bond of	22
Clerk, duties of	23
Treasurer, duties of	24
Chairman, duties of	25
Treasurer, compensation of	29
Clerk, compensation of	29
Chairman, compensation of	29
Quorum of board	30
Rule when part of members present refuse to vote.....	Note 30
Powers and duties of board	31
Powers of, to select and buy text-books.....	36A
Rules and regulations by board.....	Note 31
Additional powers of board	32
Instruction of pupils in adjoining district.....	33
Additional powers of board	34
Special duties of board	36
Free text-books, when and how adopted.....	36B
Vacancy in board, how filled	37
Tie vote at annual election creates a vacancy, how filled.....	Note 37
Special election to fill vacancy	38
Actions by	39
Actions against	40
Action when members of board resign.....	41
Depositories of funds selected by.....	47
Treasurer of not liable for funds lost in depository.....	48
Treasurer of liable for undeposited funds when lost.....	Note 48
Members of board not allowed compensation for depositing funds.	50
Excluding or expelling pupils for certain reasons; penalty for.....	51
Improper classification of pupils; penalty for.....	52
Refusing to serve on school board; penalty for.....	53
Clerk, failure to report, penalty for.....	54
Clerk drawing illegal order, penalty for.....	55
Clerk of, neglecting to keep or deliver records, penalty for.....	56
Dealing in school supplies, penalty for.....	57
Bonds, when and how may issue same.....	63
Bonds, what vote of district required	64
Bonds, for what purposes issued	65
Bonds and loans from the state.....	66
Contract in excess of tax levy void.....	69
Contracts in excess of tax levy, officers liable for performance....	69
Teachers, hiring of, by	71
Teacher's contract to be in writing	71
Teacher's contract to be signed by chairman and clerk.....	71
Teacher not to act as janitor unless specified in contract.....	Note 71
Teachers may be forbidden indulgence in certain pastimes....	Note 71
DISTRICT OFFICERS. (See District Boards, Common Districts; District Boards, Independent Districts; Clerks, Treasurers, Chairman.)	
DUTIES OF OFFICERS. (See District Boards, Common Districts; District Boards, Independent Districts; Clerks, Treasurers, Chairman.)	

E.

EDUCATION. (See Compulsory Education.)

ELECTION

Of school district officers.....	10
Of school districts on issue of bonds, vote necessary.....	64
Of superintendent in independent district.....	13

EMPLOYMENT

Of teachers, when and how.....	71
--------------------------------	----

ENGLISH LANGUAGE. (See Instruction.)

EXCUSES

For failure to send children to school, what are.....	59
For non-attendance to be reported by clerk, when, and to whom..	60

EXECUTION

When may issue for judgment against district.....	44
---	----

EXPENSES

Of school district officers attending meeting called by superin- tendent of schools	Note. 29
--	----------

F.

FINES

To be paid into county treasury for benefit of school district.....	62
---	----

FORMATION

Of school districts. (See Districts, School.)

FREE TEXT-BOOKS. (See Text-Books.)

H.

HOLIDAYS

What are; are also school holidays:.....	75
--	----

I.

INDEPENDENT DISTRICTS. (See District Boards, Independent Dis-
tricts.)

INJURIES

Boards may make rules for protection of district property from. Sub. 5, 32

INSTRUCTION

To be given in English language	73
May be given in foreign language, when.....	73
In foreign language, penalty for violating; note.....	73
Of pupils in adjoining district	33

INTEREST

Schools orders to draw	24
In what order paid.....	Note. 24
On school funds to belong to district.....	49

INTOXICATING LIQUORS

Instruction as to effects of, to be given in schools.....	74
---	----

J.

JUDGMENTS

Against districts, how paid	42
Against districts, out of what money paid	Note. 42
Against districts, paid out of money not otherwise appropriated...	42
Tax levy for payment of	43
When execution may issue against district	44
Satisfaction of, how made	46

L.

LOANS

Of state school funds, how made.....	66
--------------------------------------	----

M.

MEETINGS. (See School Meetings.)

MONTHS SCHOOL

What constitutes 72

MORALS

Instruction to be given in 74

N.

NATIONALITY

Classification of pupils as to, prohibited, penalty..... 51

NARCOTICS

Instruction as to effects of 74

NOTICE

Of hearing on petition for formation of districts..... 3

"Posted notice," requisites of such notice.....Note. 14

Of hearing on petition to change boundaries..... 7

Of election or appointment of school officers..... 19

Of officers to give notice of violations of law..... 58

Of special school meetings 11A

O.

OATHS

Of office, of school officers, where filed..... 21

OFFICERS. (See District Boards, Common Districts; District Boards,
Independent Districts; Clerks, Treasurers, Chairman.)

ORDERS

Of formation of school districts..... 3

Of change of boundary 7

For disbursement of funds, how drawn..... 23

Payment of by treasurer 24

To draw interest 24

Illegal drawing of by clerk, penalty..... 55

Practice as to paying of, when not paid for want of funds....Note. 24

P.

PENALTIES

For excluding pupils from school..... 51

Children of parents paying no taxes cannot be excluded from
schoolNote. 51

Child of school age cannot be excluded; note..... 51

Improper classification 52

Refusing to serve on school board..... 53

Failure of clerk to report..... 54

Drawing of illegal orders by clerk..... 55

Neglect of clerk to keep or deliver record..... 56

Dealing in supplies by officers or teachers..... 57

Failure to send children to school..... 62

Failure of officers to perform duties imposed upon them by the
compulsory education law 62

PETITIONS

For formation of school district..... 1

Contents 2

For change of boundary 7

For special school meeting 11A

Before petition for new district is presented to county commission-
ers county superintendent must pass upon.....Note. 4

PHYSIOLOGY	
Instruction in, to be given in schools.....	74
POLLS	
How long to be kept open at school meetings.....	18
Open less than hour does not necessarily invalidate election. Note.	18
POSTED NOTICE	
Meaning of term	Note. 14
PROPERTY	
No property qualification required to entitle a person otherwise qualified, to vote.	Note. 16
PUBLIC SCHOOLS. (See Schools.)	
PUPILS	
Exclusion of, from schools, penalty.....	51
Of school age cannot be excluded.....	Note. 51
Cannot be excluded because parents pay no taxes.....	Note. 51
Rule as to the admission of Indian children.....	Note. 51
Rules and regulations as to government of.....	Note. 31
Free transportation may be provided for, when and how.....	Sub. 4-32
Q.	
QUALIFICATIONS	
Of women to vote	16-
Of teachers	70
QUALIFIED TEACHER	
Who is	70
QUORUM	
Of electors at annual meeting.....	17
Of school board to transact business.....	30
Rule as to, when part of members refuse to vote.....	Note. 30
R.	
RATES	
Of taxation for school purposes	67
RELIGIOUS INSTRUCTION	
Cannot be given in public schools.....	Note. 74
REPORTS	
Of district clerk, how and when made.....	23
Of district treasurer, how made.....	24
Failure of clerk to make, penalty.....	54
District clerk to report children of school and those excused from attendance, when and how	60
RESIDENCE	
How determined for attending school	32
RULES AND REGULATIONS	
Reasonable, may be made by board governing conduct of pupils	Note. 31
In what cases may be adopted.....	31
Board may adopt, as to teachers, when	Note. 71
Board may adopt, respecting protection of school property....	Note. 32
S.	
SCHOOL AGE. (See Age.)	
SCHOOLS. (See, also, District Boards, Common and Independent.)	
Age of admission to	76
School boards have no authority to exclude children of legal age from	76
School boards may not exclude pupils for using tobacco.....	Note. 76

Residence necessary for admission to.....	Notes.	76
Management of and discipline in.....	Note.	76
Must be taught in the English language; exception.....	Notes.	76
When and how corporal punishment may be used in.....	Note.	76
Saloons may not be located within 1,500 feet of.....	Note.	76
Length of terms in		72
Instruction in; books to be used		73
Instruction in morals		74
Holidays are school holidays		75
Foreign language, when may be taught in.....	Note.	73
Powers of school board to manage and control.....		31
Powers of teacher to manage and control.....		71A
Powers of board to admit non-residents to.....		62
Powers of board to establish grades in.....		32
Free transportation to; powers of board.....		32
Powers of board to make rules and regulations for protection of property		32
SCHOOL BOARDS. (See District Boards.)		
SCHOOL DISTRICT BONDS. (See Bonds.)		
SCHOOL DISTRICT CLERKS. (See Clerks.)		
SCHOOL HOLIDAYS. (See Holidays.)		
SCHOOL HOUSES		
Powers of school meetings to build and acquire.....		10
How acquired and purchased		31
Vote required on question of building or acquisition.....		31
SCHOOL MEETINGS		
Annual meeting, when and how held.....		14
Annual notice of, contents, and how given.....		14
Annual, polls at, when and how long to be open.....		18
Annual, time and place of, need not be designated at preceding meeting	Note.	14
Annual, notice by freeholders requisite of.....	Note.	14
Annual, second ballot at cannot be had.....	Note.	18
Annual, plurality vote, and not majority necessary to elect officers	Note.	18
Annual, may be held open until business is finished.....	Note.	18
Special, when and how may be held, notice of.....		11A
Special, powers at same as at annual.....	Note.	11A
Special, duty of clerk to call.....	Note.	11A
Special, who to preside at.....	Note.	11A
General, women may vote at.....		16
Women freeholders entitled to sign petitions.....	Note.	16
Women become citizens on marrying citizens.....	Note.	16
Women may vote on school site questions.....	Note.	16
Women may vote on issue of bonds, when.....	Note.	16
Voters, no property qualification required.....	Note.	16
Powers of, to appoint officers of.....		10
Powers of, to elect officers by ballot.....		10
Powers of, to designate school sites and provide school houses....		10
Powers of, to repeal and modify prior proceedings.....		10
Powers of, limited by law	Note.	10
Powers of, as to school sites, how exercised.....	Notes.	10
Powers of, to elect officers, how exercised	Notes.	10
Powers of, to build school houses.....	Notes.	10
Powers of, do not extend to hiring of teachers.....	Note.	10
Powers of, to vote length of school terms.....	Notes.	10
Who entitled to vote at, residents.....	Notes.	10

	Sections.
Powers of, to vote taxes, how exercised.....	Notes. 10
Powers of, to issue bonds, how exercised	Notes. 10
Powers of, to vote money for schools and supplies.....	11
SCHOOL OFFICERS. (See District Boards, Common Districts; District Boards, Independent Districts; Clerks, Treasurers, Chairman.)	
SCHOOL SUPPLIES	
Officers and teachers dealing in, penalty.....	57
SCHOOL TAXES. (See Taxes.)	
SCHOOL TEACHERS. (See Teachers.)	
SCHOOL TREASURERS. (See Treasurers.)	
SPECIAL SCHOOL MEETINGS. (See School Meetings.)	
When and how called.....	11A
SITES	
For schools, how selected and acquired.....	31
Power of school meetings to select and change.....	10
SPECIAL MEETINGS. (See School Meetings.)	
STATE SCHOOL FUNDS	
Application for loans from, how made.....	66
STIMULANTS AND NARCOTICS	
Instruction as to effects of.....	74
SUPERINTENDENTS	
Of independent districts, how elected.....	13
Ex-officio member of board, but not entitled to vote.....	13
Rule as to election when some members of board do not vote. Note.	13
May be elected by "Aye" and "Nay" vote.....	Note. 13
Duty of as to making complaint against school officers.....	Note. 13
General duties of	26
T.	
TAXES	
Limitation of in common districts.....	67
Limitation of in independent districts for purchase of school sites and erection of school houses.....	67
Levied by board in independent districts.....	36
To be certified to county auditor, when.....	68
Contracts in excess of, void; liability of officers.....	69
For payment of judgment against district.....	43
TEACHERS	
Powers of school boards to hire.....	31
Contracts can be made only with qualified teachers.....	70
Contract with unqualified teacher void.....	Note. 70
Contracts with, made at meetings called for that purpose.....	71
Contracts, when and how made; to be in writing.....	71
Contracts, oral, not valid	Note. 71
Contracts, enforcement of	Note. 71
Contracts, general requisites of, validity and enforcement. Notes.	71
Contracts with, prior to regular annual election.....	Note. 71
Contracts with, teacher not to perform janitor service unless specified	Note. 71
Contracts with, vote necessary when related to member of board.	Note. 71
Discharge of, when and how.....	Note. 71
Rules and regulations as to conduct of teachers.....	Note. 71
May close school without loss of pay, when.....	Note. 71
Wages of, school board cannot retain.....	Note. 71
General control of schools by.....	71A
Wages of, failure to pay by treasurer, penalty.....	51A

	Sections.
To give instruction in morals, physiology, hygiene, and effects of narcotics and stimulants	74
May use corporal punishment, when and how.....Note.	76
Entitled to holidays	75
Instruction to be given by in English language.....	73
Instruction in foreign language, when and how.....Note.	73
Violating law as to instruction in foreign language, penalty. Note.	73
TERMS, OF SCHOOL	
Not less than five nor more than ten months.....	72
Length of, determined by board in independent districts.....Note.	36
TEXT-BOOKS	
Powers of school board to select and buy.....	31
Contracts for, how and when made.....	36A
Free, system of, when and how adopted.....	36B
TRANSPORTATION	
Of pupils to school, powers of boards.....	32
Of pupils to adjoining district	33
TREASURERS	
To receive and be responsible for all money.....	24
To disburse moneys, when and how.....	24
To keep account of funds and disbursements.....	24
To file with clerk detailed financial statement.....	24
To make further reports when called on by board.....	24
Duties of as to orders not paid for want of funds.....	24
Duties and powers of as to care of funds.....Notes.	24
Liability of for failure to turn over books to successor.....Note.	24
Liability of for acting without qualifying.....Note.	24
Must not speculate with funds, nor mingle with his own.....	24
Must pay out money only on orders signed by clerk and counter-signed by chairman	Note. 24
Liability of for failure to file annual statement.....Note.	24
Failure of to pay teacher's wages, personal liability.....	51A
Bond of, requirements and conditions	22
Bond of, approval	Note. 22
Amount of bond, meaning of.....	Note. 22
Bond of, signed by sureties only, does not bind sureties.....Note.	22
Compensation of, common district	28
Compensation of, amount and limit.....Notes.	28
Compensation of, independent districts	29
Depositories of funds in hands of, how selected.....	47
Exemption of from liability upon deposits.....	48
Personally responsible for loss of funds not deposited in designated depository	Note. 48
Personally liable for payment of judgment, when.....	42
Paying illegal order, penalty	55
TUITION	
In public schools to be free.....	76
Of non-resident pupils, powers of board as to.....	32
V.	
VACANCIES	
In school boards, how filled, by appointment.....	37
Tie vote at annual election creates; how filled.....Note.	37
In school boards, how filled by special election.....	38
Created at annual meeting by tie vote and not filled by board, how filled.	Note. 37-38

	Sections.
VOTERS	
Who entitled to vote	15
Women may vote	16
No property qualification required.....Note.	16
W.	
WAGES	
School board cannot retain teachers'.....Note.	71
Failure to pay teachers', by treasurer, penalty.....	51A
Drawing illegal order for, by clerk, penalty.....Note.	55
WOMEN	
Allowed to vote at school meetings, when and how.....	16

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